

**THE CITY OF THORNTON
9500 CIVIC CENTER DRIVE
THORNTON, CO 80229-4326**

**Project Manual
For
Construction of**

THORNTON TRAILS WAYFINDING SIGNAGE – PHASE II

**THORNTON PROJECT NO. 20-59A
CDOT PROJECT NO STU M 286-047**

FEBRUARY 2022

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TABLE OF CONTENTS

Table of Contents

Invitation for Bid Proposals

Information for Bidders

Procedure for Contract Signing

Contract

Performance Bond

Labor and Material Payment Bond

Bid Proposal Form

Bidder's Post Qualifications

Thornton's Special Conditions

Thornton's General Conditions

FHWA Form 1273-Required Contract Provisions, Federal-Aid Construction Contracts

Notice of Award

Notice to Proceed

CDOT Standard Special Provisions

Project Special Provisions

Appendix

- CDOT Form #606, Anti-Collusion Affidavit
- CDOT Form #1413, Bidders List
- CDOT Form #1414 Anticipated DBE Participation Plan
- CDOT Form #605, Contractor's Performance Capability Statement
- CDOT Form #621, Assignment of Anti-trust Claims
- CDOT Form #1415, Commitment Confirmation
- CDOT Form #1415, Good Faith Effort Report

Addenda

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INVITATION FOR BID PROPOSALS

**City of Thornton
9500 Civic Center Drive
Thornton, CO 80229-4326**

Sealed Bid Proposals for Construction of the "**Thornton Trails Wayfinding Signage – Phase II, Thornton Project No. 20-59A, CDOT Project No. STU M 286-047**" will be received in the Contract Administration Office at the Thornton City Hall (2nd floor), 9500 Civic Center Drive, until **3:00 p.m., March 18, 2022**. At that time, Bid Proposals will be publicly opened and read aloud.

Note: Late Proposals will not be accepted under any circumstances. Vendors electing to submit their bid via mail or courier service accept all responsibility for delivery to the Contract Administration Office by the bid closing time indicated. Thornton is not responsible for lost or late delivery of bid proposals.

Project Description: The Project consists of fabrication and installation of wayfinding signage along three (3) existing trails within Thornton. The Work includes:

1. Niver Creek Trail - starting at Zuni Street, W. 96th Street going southeast to Washington Street and Coronado Parkway.
2. Brantner Gulch Trail – starting at Lafayette Street and Eastlake Avenue going east to 128th and Tamarac Street.
3. Plains Tributary Trail – starting near Lilac Street and 138th Place going west then south then east to 120th Parkway east of Quebec Street.

The Engineer's Estimate for construction is approximately three hundred fifty thousand dollars (\$350,000.00). CDOT has determined that Underutilized Disadvantaged Business Enterprises (UDBE's) will participate by contracting for a part of the Work of this Contract. The contract goal for participation in this Contract by certified UDBE's has been established at eight percent (8%). Davis Bacon Wages are required to be paid on this Project.

Colorado Department of Transportation (CDOT) has determined that On the Job Training should be provided to trainees with the goal of developing full journey workers in the types of trade or classification involved. The contract goal for On the Job Trainees working in an approved training plan in this Contract has been established as follows:

Minimum number of total on the Job Training required zero (0) hours.

Contractors interested in submitting a Bid Proposal for this Project must at a minimum be pre-qualified with the Colorado Department of Transportation (CDOT). Copies of CDOT's pre-qualified Contractor list can be obtained at <http://www.dot.state.co.us/Bidding/listings.html>. Thornton will also post-qualify contractors.

Thornton utilizes the BidNet Direct System at www.BidNetDirect.com to distribute official copies of the Drawings and Project Manual ("Bid Documents") for use in preparing Bid Proposals. Bidders will be required to register with the website to download the Bid Documents and Addenda. There is no charge by BidNet Direct for this service. If you experience problems with the BidNet Direct website, please call 1-800-835-4603 for assistance. Bidders are required to acknowledge all Addenda with their Bid Proposal and are encouraged to either register with the website or to view the Addenda posted on the Contract Administration bulletin board prior to submission of a Bid Proposal. Bidders that do not acknowledge all Addenda may be considered non-responsive. The Bid Documents, including Addenda, are also available for viewing at the Contract Administration office located on the 2nd floor of City Hall at 9500 Civic Center Drive, Thornton, Colorado. Bidders that do not have download and/or printing capability in-house, may contact a commercial blueprint company or other reprographics company for assistance with downloading and printing the Bid Documents.

An optional Pre-Bid Conference to discuss the Project will be conducted via web broadcast with Zoom video on **March 9, 2022, at 10:30 a.m.** All Prospective Bidders are encouraged to attend. Prospective Bidders wishing to take part in the Pre-Proposal Conference should e-mail Keith Griess at Keith.griess@thorntonco.gov to receive a url link to access the Zoom Video Pre-Proposal Conference. If possible, please hold all questions concerning the RFP until that time"

Each Bid Proposal shall be made on a form furnished by Thornton, and must be accompanied by a certified check, cashier's check, or bid bond in an amount of not less than five percent (5%) of the amount of the Bid Proposal and made payable to the City of Thornton, Colorado.

The successful Bidder will be required to furnish a Performance Bond and a Labor and Material Payment Bond, each in the amount of one hundred percent (100%) of the total contract amount, in conformity with the requirements of the Contract Documents.


The successful Bidder will be determined on the basis of the lowest responsive and responsible Bid Proposals. The apparent successful Bidder(s) will be post qualified. Thornton reserves the right to reject any or all Bid Proposals, to waive any informalities or irregularities in the Bid Proposals received, and to accept the Bid Proposal which in its judgment best serves the interests of Thornton. The apparent successful Bidder will be required to complete a Reference Authorization and Release Form.

All questions shall be directed in writing to Keith Griess, Contract Administrator, 9500 Civic Center Drive, Thornton, Colorado 80229-4326, fax 303- 538-7556 or e-mail - Keith.griess@ThorntonCo.gov, 8:00 a.m. to 5:00 p.m., local time, Monday through Friday, excluding holidays.

First Advertisement: February 24, 2022, Northglenn-Thornton Sentinel

Second Advertisement: March 3, 2022, Northglenn-Thornton Sentinel

Third Advertisement: March 10, 2022, Northglenn-Thornton Sentinel

BY:  2/18/2022
 E057D2786399405
 Jim Jensen
 Contracts Manager

INFORMATION FOR BIDDERS

Thornton may consider non-conforming any Bid Proposal not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all Bid Proposals.

Bidder may, without prejudice, withdraw a Bid Proposal after it has been deposited with Thornton, provided the request for such withdrawal is received by Thornton, in writing, before the deadline set for submission of Bid Proposals. Telephonic communications withdrawing a Bid Proposal will not be accepted.

Any Bidder may modify its Bid Proposal in writing any time prior to the scheduled deadline for submission of Bid Proposals, provided such modification is received by Thornton prior to the Bid Proposal submission deadline. The modification shall not reveal the Bid Proposal price, but shall provide only the addition or subtraction or other modification so that the final prices or terms will not be known by Thornton until the original sealed Bid Proposal is opened.

Any Bid Proposal received after the time and date deadline specified will not be considered.

After opening of Bid Proposals, a Bid Proposal may not be withdrawn by the Bidder for a period of ninety (90) Calendar Days, or as otherwise required by law. Each Bid Proposal must be accompanied by either a certified check or a cashier's check made payable to The City of Thornton, or a Bid Bond duly executed by the Bidder as principal and having as Surety thereon a Surety company approved by Thornton, in the amount of five percent (5%) of the total Bid Proposal amount. Such checks or Bid Bonds of the three (3) lowest Bidders may be retained by Thornton for a period of ninety (90) Calendar Days after the Bid Proposal opening. Other Bidders' Bid Proposal security will be returned within seven (7) Calendar Days from Thornton's receipt of request.

Each Bid Proposal **must be submitted on the Bid Proposal form(s) provided by Thornton** and must be signed by the Bidder or its duly authorized agent. All blank spaces for Bid Proposal prices must be filled in, in ink or typewritten, **IN BOTH WORDS AND NUMERALS**, where called for in the Bid Proposal.

If there is a discrepancy between the total price in words and the total price in numbers, the total price in words will govern. If there is a discrepancy between the Unit or Lump Sum Prices multiplied by the respective quantities and the extended Bid Proposal Prices for individual Pay Items, the Unit Price or Lump sum Prices multiplied by the respective quantity shall be the governing number, and the extended price or prices and the resulting Total Price will be adjusted accordingly.

Conditional Bid Proposals will not be accepted.

Each Bid Proposal must also include the following CDOT forms, which are included herewith as Appendix A:

- CDOT Form #606, Anti-Collusion Affidavit
- CDOT Form #1413, Bidders List
- CDOT Form #1414 Anticipated DBE Participation Plan
- CDOT Form #605, Contractor's Performance Capability Statement
- CDOT Form #621, Assignment of Anti-trust Claims
- CDOT Form #1415, Commitment Confirmation
- CDOT Form #1415, Good Faith effort Report

Each Bid Proposal must be submitted in a sealed envelope bearing on the outside the name of the Bidder, Bidder's address, and the name of the Project and the Project Number for which the Bid Proposal is submitted. If submitted by mail, package delivery, or courier service, a sealed envelope containing the Bid Proposal must be enclosed in a mailing envelope addressed to the Contracts and Special Projects Manager, 9500 Civic Center Drive, 2nd Floor City Hall, Thornton, Colorado 80229-4326. Please be sure to note on the outside of the mailing envelope "Bid Proposal Enclosed, **Thornton Trails Wayfinding Signage – Phase II, Thornton Project No. 20-59A, CDOT Project No. STU M 286-047**".

Simultaneously with the delivery of the executed Contract, the Contractor shall furnish its IRS W-9 taxpayer ID form, the Affidavit if required, the required insurance certificate(s), required endorsements thereto, ACORD Form 101 if required, and Performance and Labor and Material Payment Bonds as security for faithful performance of the Contract and for the payment of all persons performing labor in connection with the Work covered under the Contract and furnishing materials in connection with the Contract, as specified in the Contract Documents. The Surety on such Bonds shall be a duly authorized Surety company satisfactory to Thornton. Attorneys-in-fact who sign Bid Bonds or Performance and Labor and Material Payment Bonds must file with each bond a certified and effectively dated copy of their Power of Attorney. The Surety or Sureties must be listed in Federal Circular 570 and must be approved by Thornton. In no case will Sureties with less than a Best's A rating be approved. Insurers, at a minimum, are required to be admitted in the State of Colorado and maintain an A.M. Best Financial Strength Rating of A or higher.

The successful Bidder, upon Bidder's failure or refusal to execute and deliver the required Contract, Bonds if required, insurance certificate(s), additional insured endorsements, ACORD Form 101 if required, the Affidavit if required, and or the W-9 form within ten (10) Calendar Days from and including the date of Notice of Award, shall forfeit to Thornton the security deposited with its Bid Proposal. Notice of Thornton's intent to retain the bid security shall either be hand delivered by Thornton to the Bidder's address, as given on the Bid Proposal form, or mailed to such address, first class, United States mail, return receipt requested. Delivery or mailing of the notice to the address provided shall constitute the required notice without the requirement of an acknowledgment of receipt from the Bidder.

Each Bidder must inform itself fully of the conditions relating to the construction of the Work and the employment of labor thereon. Failure to do so will not relieve a successful Bidder of its obligation to furnish all Materials and Equipment and labor necessary to carry out the requirements of the Contract Documents. Insofar as possible, the Bidder, in carrying out its Work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor.

The Bidder's attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Work shall apply to the Contract throughout, and will be deemed to be included in the Contract the same as though herein written out in full.

No interpretation of the meaning of the Drawings, Specifications, Addenda, other Bid Documents, Contract Documents, or Pre-Bid Meeting Minutes will be made to any Bidder orally. If a Bidder who contemplates submitting a Bid Proposal is in doubt about the precise meaning of any part of the proposed Contract Documents, it may submit to Thornton a written request for an interpretation. Every request for such interpretation shall be in writing addressed to Keith Griess, Contract Administrator, at 9500 Civic Center Drive, Thornton, CO 80229-4326, fax 303-538-7556, or e-mail – Keith.griess@ThorntonCo.gov, and to be given consideration it must be received by 5:00 p.m. on the tenth (10th) Calendar Day prior to the date fixed for the submission of Bid Proposals. The Bidder submitting the request will be responsible for its prompt and actual delivery. Thornton will not be responsible for any other explanations or interpretations of the Contract Documents which anyone may make on behalf of Thornton. Any and all such interpretations and any supplemental instructions will be in the form of written Addenda to the Bid Documents or to the Contract Documents which, if issued, will be posted on BidNet Direct System's website at www.BidNetDirect.com and on the Contract Administration bulletin board. Failure of any Bidder to receive any such Addenda or interpretation shall not relieve such Bidder from any obligation under its Bid Proposal, as submitted. All Addenda so issued shall become part of the Contract Documents. It shall be the responsibility of each Bidder to verify that each Addendum has been received. A bulletin board will be maintained at the Contract Administration Office which will list the current Projects with Bid Proposal due dates and all Addenda, including the date of issue for each. It is recommended that all Bidders check this board for the status of the particular Project they are interested in bidding prior to submitting a Bid Proposal.

At the time of submission of a Bid Proposal, each Bidder shall have completed a thorough site inspection, including, but not limited to, the location, accessibility and general character of the site of the Work and all existing buildings and structures within and adjacent to the Project site, sufficient to satisfy itself as to the nature of the Work, the condition of existing buildings and structures, the conformation of the ground, the character, quality, and the nature of any Construction Equipment and any other facilities needed preliminary to and during construction of the Work, the general and local conditions, the construction hazards, and all other matters, including the labor situation, which might affect the Work. The Bidder also will have carefully examined and be thoroughly familiar with the Contract Documents, including all Addenda, and satisfied itself as to the feasibility and correctness of the Contract Documents for the construction of the Work and that it accepts all terms, conditions, and stipulations contained in the Contract Documents, and is prepared to work in peace and harmony with other contractors performing work at the Project site. Bidders also shall have reviewed the insurance requirements contained in the Contract Documents. The failure or omission of any Bidder to examine any form, instrument, or document shall in no way relieve any Bidder from any obligation in respect to its Bid Proposal. The Bidder is to confirm the completeness of the Contract Documents on which its Bid Proposal is based. If the Bidder determines its Contract Documents are incomplete or irregular, it is the Bidder's responsibility to bring this fact to the attention of the Contract Administrator prior to submitting a Bid Proposal.

Thornton invites Bid Proposals on the form(s) included as part of this document to be submitted at such time and place as stated in the Invitation for Bid Proposals. All blanks in the Bid Proposal forms must be appropriately filled in with typewriter or ink. Bidders are instructed to submit the entire Bid Proposal form. **It is the sole responsibility of the Bidder to see that the Bid Proposal is received by Thornton before the scheduled deadline set for submission of Bid Proposals.** Any Bid Proposals received after the scheduled deadline for submission of Bid Proposals will be returned to the Bidder unopened.

The Bid Proposal must be signed in the name of the Bidder and must bear the signature in long hand of the person or persons duly authorized to sign the Bid Proposal. Changes in or additions to the Bid Proposal forms, recapitulations of the Work bid upon, alternative Bid Proposals not requested by Thornton, or any other modifications of the Bid Proposal which are not specifically called for in the Bid Documents, the Contract Documents, or an Addendum may be rejected by Thornton as not being responsive to the solicitation.

Bid Proposals shall be made in the name of the principal, and if a co-partnership, the names of all partners shall be given. Exact postal address shall be given in all cases. If Bid Proposals are submitted by an agent, satisfactory evidence of agency authority must accompany the Bid Proposal. Corporate Bidders to be eligible to enter into a Contract with Thornton shall be qualified to do business in the State of Colorado and Thornton. Bidders shall comply with applicable licensing requirements. Foreign corporations which have not domesticated or otherwise become licensed in Thornton shall obtain a permit to do business in Thornton pursuant to Thornton's requirements prior to submission of a Bid Proposal.

The Bid Proposal submitted must not contain erasures, corrections, or changes from the printed forms as completed in typewriter or ink, unless such erasures, corrections, or changes are authenticated by affixing in the margin immediately opposite the erasure, correction, or change, the initials of the person who signed the Bid Proposal or the initials of such other person as may be authorized by the Bidder to make erasures, corrections, or changes in the Bid Proposal, and such authorization must be evidenced by written confirmation, executed by the person authorized to sign the initial Bid Proposal, attached to the Bid Proposal at the time of submittal.

Bid Proposals may be considered non-conforming and may be rejected for any of the following reasons, unless otherwise provided by law:

1. If the Bid Proposal form(s) furnished to the Bidder by Thornton is not used or is altered;
2. If there are unauthorized additions or conditional Bid Proposals, or irregularities of any kind which may tend to make the Bid Proposal incomplete, indefinite, or ambiguous as to its meaning;
3. If the Bidder adds any provisions reserving the right to accept or reject any Contract award or to enter into a Contract pursuant to an award;

4. If the Unit Prices or Lump Sum Prices contained in the Bid Proposal are unbalanced either above or below reasonable cost analysis values as determined by Thornton;
5. If the Bid Proposal Pay Item price for Mobilization exceeds ten percent (10%) of the total Contract Price;
6. If the Bidder fails to insert a Price for every Bid Proposal Pay Item indicated;
or;
7. If the Bidder fails to complete the Bid Proposal in any other particulars where information is requested so Bidder's Proposal may be properly evaluated.

Thornton reserves the right to reject any or all Bid Proposals and to waive irregularities or informalities as may be deemed in Thornton's best interest.

Thornton reserves the right to reject any Bid Proposal if investigation of such Bidder fails to satisfy Thornton that such Bidder is properly qualified to carry out the obligations and to complete the Work contemplated by the Contract Documents. Any or all Bid Proposals will be rejected if there is reason to believe that collusion exists among Bidders.

Thornton reserves the right to prequalify Bidders, to post-qualify Bidders, to reject all Bid Proposals, not to make an award, and/or to accept the Bid Proposal deemed most advantageous and in the best interest of Thornton. The Bidder must comply with all information and instructions for Bidders. The award of the Contract, if made by Thornton, will be made by written Notice of Award to a qualified, responsible, responsive, and trustworthy Bidder submitting the lowest and best Bid Proposal, but Thornton shall determine in its sole discretion whether a Bidder is responsible, responsive, qualified, and trustworthy to perform the Contract, whether by prequalification, post-qualification, or other methods, and which Bid Proposal is the lowest and best and whether it is in the best interest of Thornton to accept the Bid Proposal. Thornton reserves the right to request financial statements, together with a Bidder's Post Qualification Form which includes a statement of past experience, personnel resumes, Construction Equipment available to perform the Work, the Bidder's proposed Schedule of Work, and other qualification information, from any Bidder considered for award of a Contract. Failure or refusal to furnish such qualification information, or failure to provide a satisfactory statement of financial responsibility, shall constitute a basis for disqualifying any Bidder. In evaluating whether the Bidder is responsible, Thornton, in its sole discretion, may consider such things as whether the Bidder is in arrears to Thornton under any obligation; has an unacceptable performance or claims history with Thornton or with other owners; is not trustworthy; has submitted false information in the past, or is currently involved in a dispute with Thornton. Thornton also reserves the right to require evidence of satisfactory operation of any Construction Equipment required to be used to perform the Work. Thornton will consider the Bid Proposals and reserves the right to reject any or all Bid Proposals, to pass upon the regularity, or waive any irregularity or informality, of the Bidders and the acceptability of the Surety offered.

Prior to bidding, requests to substitute Materials or Equipment from those specified shall be made in writing and shall identify the Material or Equipment, or the fabrication or installation method to be replaced, in each request and shall include related Specification sections and Drawing numbers. The Bidder shall provide complete documentation showing compliance with the requirements for substitutions, and the following information, as appropriate:

1. Product Data, including Drawings and descriptions of products, fabrication and installation procedures;
2. Samples, where applicable or requested;
3. A detailed comparison of significant qualities of the proposed substitution with those of the Work specified. Significant qualities may include elements such as size, weight, durability, performance, and visual effect;
4. Coordination information, including a list of changes or modifications needed to other parts of the Work and to construction performed by Thornton and separate contractors, which will become necessary to accommodate the proposed substitution;
5. Any additional information Thornton may request.

All requests for substitution shall be submitted in writing to the Contract Administrator, and all such requests shall be received by Thornton no later than 5:00 p.m. on the tenth (10th) Calendar Day prior to the Bid Proposal submittal date. If any additional Material or Equipment is approved, the information will be published in an Addendum prior to the Bid Proposal submittal date. All Bid Proposals shall be based only on approved or specified Materials and Equipment. Thornton is not obligated to approve substitutions, either before Bid Proposal submission or after Notice of Award, regardless of whether Material, Equipment, or process is considered equivalent.

The successful Bidder, upon award of a Contract, shall commence Work on the date specified in the Notice to Proceed and shall diligently prosecute the Work and shall substantially complete all Work within the Contract Time. Should the Contractor fail to substantially complete all Work in the allotted time period, Liquidated Damages may be assessed.

At the Pre-Construction Meeting or within fourteen (14) Calendar Days after Notice of Award, whichever occurs sooner, the successful Bidder shall submit to Thornton a preliminary schedule showing the order in which the Bidder proposes to carry out the Work to successfully construct all of the Work within the Contract Time. This schedule shall be in addition to any other schedule requirements contained in the Contract Documents. Such preliminary schedule shall show the dates on which the Bidder will start and complete the several parts of the Work and the order of construction and delivery dates of critical Materials and Equipment. The preliminary schedule shall be subject to acceptance by Thornton. The schedule shall be binding on the Bidder and shall be adhered to by the Bidder unless, for good cause shown, a modification of Schedule shall be requested in writing to Thornton and approved by Thornton in accordance with the General Conditions of the Contract.

PROCEDURE FOR CONTRACT SIGNING

1. Signed Notice of Award - One (1) Original of NOA retained by Contract Administration One (1) Copy of Executed NOA sent to Contractor
2. After award, Contract Administrator sends a copy of Contract to Contractor.
 - A. Contractor signs, and attests if applicable, and returns copy of Contract to Thornton's Contract Administrator.
 - B. The Contractor's representative signing the Contract shall be authorized to bind the company in a contract with Thornton.
 - C. If Contractor is a corporation, Contracts must be attested and attestation witness must be an officer of the corporation of at least a Secretary rank (not a notary). If Contractor is not a corporation, attestation is not required.
 - D. Print title of the Contract signer, and the attestation witness if applicable, in the spaces provided.
 - E. Do not date the Contract. The last City of Thornton signatory will date the Contract.
3. Include the following when returning executed Contracts to Thornton:
 - A. Executed Performance Bond and Labor and Material Payment Bond, along with applicable Powers of Attorney, in one hundred percent (100%) of the Contract Price from a bonding company listed in the government approved list of bonding companies (Circular 570). Original signature, with witness signature or attestation if corporation, are required. Submit an executed Power of Attorney for each set of bonds.
 - B. Certificate(s) of Insurance, the Additional Insured Endorsements, and ACORD Form 101 if required, showing all required insurance coverages and limits.

If the Acord Certificate is used, we must have a signed (not stamped) certificate.

Thornton, its officers, employees, and agents are to be named as Additional Insureds, along with CDOT. This language is to appear on the face of the certificate. Additional Insured Endorsements, indicating completed operations coverage where applicable, must also be submitted.
 - C. W-9 Taxpayer ID Form.

- D. Affidavit if Contractor is a sole proprietor or individual. Contractor must appear before the Support Services staff at Thornton City Hall for identification verification and to allow a copy of the identification to be made for Thornton's file.
- 4. Return the Certificates of Insurance, Additional Insured Endorsements, ACORD Form 101 if required, Bond Forms with Power of Attorney, W-9 Taxpayer ID form, the Affidavit if applicable, and signed (and attested if applicable) Contracts to the Contract Administrator within ten (10) Calendar Days from date of Notice of Award, unless noted otherwise in the Contract Documents.
- 5. Thornton's Contract Administrator will incorporate the Certificate(s) of Insurance, Additional Insured Endorsements, ACORD Form 101 if applicable, executed Performance and Payment Bonds, and applicable Powers of Attorney, into the Project Manuals with the signed (and attested if applicable) Contract and will route the Project Manual for City of Thornton signatures. **The last City of Thornton signatory will date the Contract on the first page.** One (1) fully executed original will be returned to the Contractor via approved digital signature service for the Contractor's file. The Contractor is responsible for sending the Bonding Company one (1) fully execute copy.

CONTRACT

This Contract for the **Thornton Trails Wayfinding Signage – Phase II, Thornton Project No. 20-59A, CDOT Project No. STU M 286-047** is made and entered into on this ____ day of _____, 20__ between the **City of Thornton**, a Colorado home rule municipality, in the state of Colorado, (“Thornton”), and _____ (“Contractor”). Thornton and Contractor hereinafter may be referred to collectively as, the “Parties” or individually as the “Party.”

I. RECITALS

- A. On [date]_____, Thornton solicited one or more vendors (individually, “Contractor”) to perform the services it needs for the **Thornton Trails Wayfinding Signage – Phase II, Thornton Project No. 20-59A, CDOT Project No. STU M 286-047** (the “Project”); and
- B. On [date]_____, after the solicitation closed, Thornton awarded the Project to the above-named Contractor; and
- C. Contractor represents it is available to perform the work and that it is experienced and knowledgeable in doing this type of work and is ready, willing and able to perform the work this Project requires.

For good and valuable consideration, the sufficiency of which is acknowledged, Contractor and Thornton agree as follows:

II. TERMS & CONDITIONS

- A. **Contractor’s Role in General; The Work.** Contractor shall perform and complete all Work in connection with the **Thornton Trails Wayfinding Signage – Phase II, Thornton Project No. 20-59A, CDOT Project No. STU M 286-047**, in accordance with the Contract Documents, including any and all Addenda prepared by Thornton’s Contracts and Purchasing Director, the Drawings and Specifications, and the Contractor's Bid Proposal, consistent with generally accepted industry standards.
- B. **Project Description.** The Project consists of fabrication and installation of wayfinding signage along three existing trails within Thornton.
- C. **Contract Value.** Thornton shall pay Contractor for performance of any Work either a fixed amount or by the unit prices as set forth in Exhibit _____. The total sum is, _____ (\$_____), which is subject to adjustment by the approval of a Change Order. Payments to Contractor shall be in accordance with the General Conditions’ Article 40, Progress Payments/Applications for Payment.
- D. **Commencement Date, Contract Time.** Work under this Contract shall commence on the date specified in the written Notice to Proceed from Thornton to the Contractor.

Upon receipt of the Notice to Proceed, the Contractor shall diligently and continuously perform and substantially complete all Work under this Contract within One Hundred Eighty (180) Calendar Days.

E. Liquidated Damages for Unexcused Delay.

1. The Parties agree that the actual damages Thornton would incur are too difficult or impossible to determine with any certainty as result of Contractor's unexcused delay to substantially complete the Work (within the Contract Time or from the date of the Notice to Proceed).
2. Contractor therefore agrees to pay as Liquidated Damages, and not as penalty, the amount identified in the CDOT STANDARD SPECIAL PROVISIONS.
3. Upon determination by Thornton the Substantial Completion date will not be met as the result of delay(s) caused by Contractor, Thornton has the right to deduct the total amount of Liquidated Damages as set forth above from the funds that are due or becoming due to Contractor, shall be in accordance with the General Conditions' Article 27, Liquidated Damages - Time an Essential Element.

F. List of Exhibits, Attachments, Appendices, Addendums and Other Documents.

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| <ul style="list-style-type: none"> ▪ Invitation for Bid Proposals ▪ Addenda ▪ Special Conditions ▪ Specifications ▪ Drawings ▪ Labor and Material Payment Bond ▪ Notice of Award ▪ Change Orders | <ul style="list-style-type: none"> ▪ Information for Bidders ▪ The Contract ▪ General Conditions ▪ Bid Proposal Form ▪ Appendices (if any) ▪ Performance Bond ▪ Notice to Proceed |
|--|--|
1. The Contract Documents. All the exhibits, attachments, addendum, and other documents, contained, or referenced in this Contract, are incorporated, verbatim, by this reference into this Agreement.
 2. Order of Precedence. In case of discrepancy or conflict between any of the Contract Documents listed below, the provisions of the document listed first in order shall govern over those documents listed in descending order after the first listed document as follows:

<ol style="list-style-type: none"> 1) Change Orders 2) Addenda 3) The Contract 4) Drawings 5) Special Conditions 	<ol style="list-style-type: none"> 6) Specifications 7) General Conditions 8) Information for Bidders 9) Appendices (if any) 10) Bid Proposal
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3. The Contract Documents are intended to be complementary, and anything required by any of the Contract Documents shall be binding as if required by all of the Contract Documents. Contractor shall not take advantage of any apparent error or omission or conflict in the Drawings or Specifications. In the event Contractor discovers an error, omission or conflict, it shall immediately notify Thornton. Thornton will then make such corrections and interpretations as may be necessary to fulfill the intent of the Drawings and Specifications.
- G. **Electronic Signatures and Electronic Records.** The Parties consent to the use of electronic signatures. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the Parties in the manner specified by any applicable City regulation, rule, and/or ordinance. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

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APPROVED AS TO LEGAL FORM:
William A. Tuthill III, Interim City Attorney

CITY OF THORNTON, COLORADO:

By: _____
Michael J Hickman, Assistant City Attorney II

Kimberly Newhart
Finance Director

ATTEST:

CITY OF THORNTON, COLORADO:

Kristen N. Rosenbaum, City Clerk

Sean Saddler, PE
Contracts and Purchasing Director

ATTEST: (FOR FIRM SIGNATURE)
If corporation

INSERT FIRM NAME:

Signature

Signature

Print Name

Print Name

Title

Title

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PERFORMANCE BOND

The **City of Thornton**, a home rule municipality, located at 9500 Civic Center Drive, Thornton, Colorado 80229 ("Thornton" or "Obligee") and [**Contractor's full name and type of legal entity**]. Contractor, having an office at [**enter Contractor's address**] have entered into an Contract with a Notice of Award dated _____, 20____ for Contract in connection with Thornton Trails Wayfinding Signage – Phase II, Thornton Project No. 20-59A, CDOT Project No. STU M 286-047 (the "Project").

By virtue of this Bond, Contractor as Principal, and (**Surety's full name**)_____ having an office at (**Surety's address**) _____ (the "Surety"). The Principal and Surety are firmly bound to Thornton, for the maximum amount of \$ [**spell out dollar amount here**] Dollars [**\$XXXXXXXX**] (the "Bond Sum").

Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, to Obligee for the performance of the Work this Project requires and as set forth in the Drawings and Specifications prepared by Icon Engineering, 7000 S Yosemite Street, Suite 120, Centennial, Colorado 80112.

I. BOND TERMS

- A. The Contract by this reference is incorporated into this Performance Bond.
- B. If Contractor performs its Contract obligations (the "Work") as required, Surety shall have no further obligations under this Bond. If Contractor does not perform the Work, Surety's obligations under this Bond shall remain in full force and effect.
- C. Surety waives notice of any change made by Thornton, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.
- D. If Contractor is in default on the Contract, and Thornton has performed its obligations under the Contract, Surety shall promptly and at the Surety's expense take one (1) of the following actions:
 - 1. Surety may promptly remedy the default;
 - 2. Surety shall promptly;
 - a. With Thornton's consent, complete the Contract in accordance with its terms and conditions using its agents or independent Contractors;
 - b. Obtain one or more bids from lowest, qualified Contractors acceptable to Thornton to complete the Contract in accordance with its terms and conditions;
 - c. Arrange for a Contractor, acceptable to Thornton, to complete the Work in accordance with its terms and conditions of the Contract and secured by

performance and payment bonds issued by a qualified surety. Surety will ensure sufficient funds are available to pay the cost to complete the Work as it progresses, and other costs and damages Surety may be liable to pay, minus the balance of the Contract price, up to Bond Sum indicated in the first paragraph of this Performance Bond. The term "balance of the Contract price" as used in this subsection c, means the total amount payable by Thornton to Contractor under the Contract and any Contract Change Orders thereto, less the amount properly paid by Thornton to Contractor.

II. ADDITIONAL TERMS

- A. **Duration.** This obligation will run continuously, and will remain in full force and effect until and unless the Bond is terminated and cancelled as provided in the Contract or as otherwise provided by law.
- B. **Bond Venue.**
1. The venue for any action, dispute or proceeding initiated in connection with this Bond will be District Court in and for the County of Adams, State of Colorado.
 2. Any suit under this Bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.
- C. **No Other Beneficiaries.** No right of action shall accrue on this Bond to or for the use of any person or corporation other than Thornton.
- D. **Severability.** If one or more of the provisions of this Bond are determined to be illegal or unenforceable by a court of competent jurisdiction, all other provisions will remain effective.

Signed and sealed this _____ day of _____, 20_____.

Witness

Principal

Title

Title

Witness

Surety

Title

Title

LABOR AND MATERIAL PAYMENT BOND

The City of Thornton, a home rule municipality, located at 9500 Civic Center Drive, Thornton, Colorado 80229 ("Thornton" or "Obligee") and [Contractor's full name and type of legal entity]. Contractor, having an office at [enter Contractor's address] have entered into an Contract with a Notice of Award dated _____, 20__ for Contract in connection with Thornton Trails Wayfinding Signage – Phase II, Thornton Project No. 20-59A, CDOT Project No. STU M 286-047 (the "Project").

By virtue of this Bond, Contractor as Principal, and **(Surety's full name)**

having an office at **(Surety's address)** _____

(the "Surety") as the Principal and Surety are firmly bound to Thornton, for the benefit of Claimants, in the amount of \$[spell out dollar amount here] Dollars (\$XXXXXXX). Claimants means, without limitation, an individual or entity contracting directly with Contractor or with a subcontractor of Contractor to furnish labor and materials for use in the performance of the Contract, and also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or state statute against Contractor for the Project.

Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, to pay for labor, materials and equipment furnished by Claimants for the performance of the Contract for the specified Work and set forth in the Drawings and Specifications prepared by Icon Engineering, 7000 S Yosemite Street, Suite 120 Centennial, Colorado 80112.

I. BOND TERMS

- A. The Contract by this reference is incorporated into this Labor and Material Payment Bond.
- B. Surety waives notice of any change made by Thornton, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.
- C. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds Thornton harmless for claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, Surety shall have no further obligations under this Bond. If Contractor fails to promptly make payment of all sums due to Claimants, Contractor's, and Surety's obligations under this Bond shall remain in full force and effect, and be subject to the following:
 1. Claimants that directly contract with Principal, or with a subcontractor of the Principal, for labor and materials or a combination of both used or reasonably required for use in the performance of the Contract. Labor and materials include without limitation all and any part of water, gas, power, light, heat, oil, gasoline, equipment, telephone service or rental equipment used in the Contract, and, if applicable, architectural and engineering services required for performance of the Work by Contractor and its subcontractors, and all other items that may be subject to filing a claim under this Bond.

2. The above-named Principal and Surety hereby jointly and severally agree that every claimant, who has not been paid in full before the expiration of ninety (90) Calendar Days after the date on which the last Claimant's Work or labor was done or performed, or furnished materials, may sue on this Bond, prosecute the suit to final judgment, and execute it to recover any and all sums justly due to Claimant. Thornton shall not be liable for the payment of any costs or expenses of any such suit.
3. No suit or action shall be commenced by any Claimant:
 - a. Until Claimant, other than a Claimant that directly contracts with the Principal, has given written notice to Principal, Thornton, and Surety, within ninety (90) Calendar Days after Claimant last performed Work or labor, or furnished materials. The notice for which the claim is made, must state with substantial accuracy the amount claimed, and the name of the party to whom the materials were furnished, or for whom the labor was performed. Notice shall be delivered by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Thornton and Surety, at the place where an office is regularly maintained for the transaction of business, or it may be served in any manner by which legal process is served in the state where the Project is located, however, service need not be made by a public officer;
 - b. After the expiration of six (6) months from the date Principal stopped performing the Work pursuant to the Contract. It is understood that if any time limitation embodied in this Bond is prohibited by law controlling such limitation, this Bond shall be deemed amended to equal the minimum period of time limitation as such law permits;
 - c. Other than in a state court of competent jurisdiction in, and for the county or other political subdivision of the state where the Project, or any part of it is situated, or in the United States District Court of the District where the Project, or any part it is situated, and no other place.

Signed and sealed this _____ day of _____ 20____.

Witness

Principal

Title

Title

Witness

Surety

Title

Title

BID PROPOSAL

To: City of Thornton
Attn: Contract Administration
9500 Civic Center Drive
Thornton, Colorado, 80229

The undersigned Bidder, having examined the Specifications, Drawings, and all other documents contained in the Contract Documents, and having examined the Project site where the Work is to be performed, and having familiarized itself with all local conditions affecting the Work and having knowledge of the cost of Work, hereby proposes to execute and perform the Contract set forth in these Contract Documents, of which this Bid Proposal forms a part, and shall do the Work therein described in accordance with the terms and conditions therein set forth, and shall furnish all required labor, Materials, Equipment, tools, Construction Equipment, transportation and services for said Work, and shall pay all applicable fees, permits, taxes, and other incidental costs, all in strict conformity with the Contract Documents, for an amount computed upon the basis of the quantity of Work actually performed at the Bid Proposal prices provided below.

It is understood that any listed quantities of Work to be performed at Unit Prices, except those items specified to be paid at plan quantity, are approximate only and are intended principally to serve as a guide in evaluating Bid Proposals, and the Work will be paid by measuring actual quantities and multiplying the actual quantity by the agreed upon Unit Price. Listed quantities of Work specified to be paid at plan quantity are given as a convenience to assist the Bidder during the bid process and are approximate only, and both Bidder and Thornton agree that regardless of the actual final in place quantity the items of Work specified to be paid at plan quantities will not be measured for payment, and payment will be made based on the plan quantity specified multiplied by the agreed upon Unit Price.

It is further agreed that any quantities of Work to be performed and Material to be furnished at Unit Prices may be increased or decreased as may be considered necessary, in the opinion of Thornton, to complete the Work fully as planned and contemplated and that all quantities of Work or Materials, whether increased or decreased, are to be performed at the Unit Prices set forth in the Bid Proposal, except as provided for in the General Conditions.

It is further agreed that any Lump Sum Prices may be increased to cover Changed or Extra Work ordered by Thornton, but not shown on the Drawings or required by the Specifications, in accordance with the provisions of the General Conditions. Similarly, they may be decreased to cover deletion of Work so ordered.

It is further agreed that any combination of Unit Prices and Lump Sum Prices contained in the Bid Proposal, as applicable, may be used by Thornton to price Changed or Extra Work regardless of the scope or quantity of the change, except as may be otherwise provided for in the General Conditions.

By submitting this Bid Proposal, the Bidder acknowledges its understanding that the Bid process is solely intended to serve the public interest, in achieving the highest quality of services and goods at the lowest price and that no right, interest, or expectation shall vest or inure to the benefit of a Bidder as a result of any reliance or participation in the process. In submitting this Bid Proposal, it is understood that the right is reserved by Thornton to reject any or all Bid Proposals and waive informalities or irregularities in Bid Proposals.

The undersigned further agrees, if awarded the Contract for the Work included in this Bid Proposal, to begin and to complete the Work contemplated in accordance with all the conditions set forth in the Contract Documents.

The undersigned has carefully checked the Unit Prices, Lump Sum Prices, and Extended Prices inserted by it and understands that they are the Bidder's sole responsibility and that Thornton will not be responsible for any errors or omissions on the part of the undersigned Bidder in preparing this Bid Proposal.

The undersigned certifies that this Bid Proposal is genuine, not collusive, or made in the interest or behalf of any person not named as provided in the Instruction to Bidders and that the undersigned has not, directly or indirectly, induced or solicited any other Bidder, or induced any other person, firm or corporation to refrain from submitting a Bid Proposal, and the undersigned has not in any manner sought by collusion to secure for itself an advantage over any other Bidder.

The undersigned has attached a certified check without endorsement or conditions, payable to the City of Thornton, in the sum of five percent (5%) of the Bid Proposal, drawn on a bank which is a member of Federal Reserve System or which is a member of the Federal Deposit Insurance Corporation, or attach a cashier's check for five percent (5%) of the total Bid Proposal amount, or attach a Bid Bond written by a surety company approved by Thornton and listed in the most recent Federal Register Circular 570 or having a current Best's rating of A or better for five percent (5%) of the total Bid Proposal amount.

It is expressly understood that the check or bond is given as security and as a guarantee that the Bidder will, if awarded the Contract, timely execute the Contract, furnish an acceptable Performance Bond and Labor and Material Payment Bond on the forms included in the Contract Documents if required, furnish the required insurance, and furnish the other documents required by the Contract. The undersigned expressly acknowledges that the amount thereof represents the agreed damages that Thornton will sustain if the Bidder fails or refuses to execute and deliver within ten (10) Calendar Days from and including the date of the Notice of Award, the Contract, the required Performance Bond and Labor and Material Payment Bond, the required insurance, and the other documents required by the Contract, in which event said check or bond shall be immediately payable to and retained by Thornton.

The Bidder grants Thornton the right to hold the lowest three (3) Bid Proposals received, together with the accompanying Bid Proposal securities, for a period of ninety (90) Calendar Days after the date of submission of the Bid Proposals and to delay Notice of Award until the end of such time period.

The undersigned Bidder further grants Thornton the right to award this Contract on the basis of any possible combinations of base Bid Proposal and add or deduct alternate(s), if any, that best suits Thornton's needs.

The undersigned Bidder further agrees to furnish to Thornton all such information and data deemed by Thornton to be necessary to determine the ability of Bidder to perform the Work, and within two (2) Business Days of Bid Proposal submission, shall provide Thornton a completed Reference Authorization and Release Form, a copy of which is included herein.

The undersigned Bidder further agrees to comply with Colorado's statutes. Pursuant to Colorado Law, if Bidder's form of business is a sole proprietor or individual, Bidder hereby agrees that upon receipt of Notice of Award, Bidder will complete and file with Thornton a sworn Affidavit, the form of which will be provided by Thornton, affirming that Bidder is lawfully present in the United States and to provide acceptable identification as described in the Affidavit. Furthermore, if Bidder's Work involves provision of a service and not provision of a specific end product, Bidder, upon being awarded the Work, hereby certifies the following:

1. Bidder, as of the date of Notice of Award, shall not knowingly employ or contract with an illegal alien who will perform Work under this Contract.
2. Bidder shall participate in either the E-Verify Program created in Public Law 104-208, as amended and expanded in Public Law 108-156, as amended, and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program, or the Department Program, which is the employment verification program established by the Colorado Department of Labor and Employment (the "Department") pursuant to Section 8-17.5-102 (5), C.R.S.
3. Bidder has confirmed the employment eligibility of all employees who are newly hired for employment to perform Work under the Contract through participation in either the E-Verify Program or the Department Program.
4. Bidder shall not enter into a contract with a Subcontractor that fails to certify to Bidder that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform Work under this Contract.
5. Bidder shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Contract is being performed.
6. If Bidder obtains actual knowledge that a Subcontractor performing Work under this Contract employs or contracts with an illegal alien, Bidder shall:
 - a. Notify the Subcontractor and Thornton within three (3) Calendar Days that Bidder has actual knowledge that the Subcontractor is employing or contracting with an illegal alien; and

- b. Terminate the subcontract with the Subcontractor if within three (3) Calendar Days of receiving the notice required pursuant to this subparagraph, the Subcontractor does not stop employing or contracting with the illegal alien; except that Bidder shall not terminate the subcontract with the Subcontractor if during such three (3) Calendar Days the Subcontractor provides information to establish that the Subcontractor has not knowingly employed or contracted with an illegal alien.
7. Bidder shall comply with any reasonable request by the Department made in the course of an investigation that the Department is undertaking pursuant to the authority established by Colorado Law.
8. If Bidder violates any provision of this certification, Thornton may terminate this Contract for cause. If this Contract is terminated for cause, notwithstanding any provision to the contrary, Bidder shall be liable for actual and consequential damages suffered by Thornton.

The Bidder's attention is directed to the fact that all applicable state and federal laws, county and city ordinances, licenses and regulations of all authorities having jurisdiction over the Project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though herein written out in full.

The undersigned Bidder acknowledges that the City of Thornton Charter Section 7.4 prohibits Thornton from making Contracts with firms which employ certain relatives of Thornton employees unless the City Council determines that the making of such a Contract is in Thornton's best interest. For the purposes of this Charter Section, relative shall include domestic partners. The undersigned Bidder attests to the following:

No City Council Member, member of a board or commission, Municipal Judge, City Manager, City Attorney, or employee of the City of Thornton or any such person's family member, domestic partner, or person assuming a relationship being the substantial equivalent of the above, has an existing or pending, direct or indirect, financial, pecuniary or personal interest in the Bidder or with this Invitation for Bid Proposals, except as follows (list, if none state "None"): _____

The undersigned Bidder acknowledges the following Addenda:

Addendum #	Dated	Initial
_____	_____	_____
_____	_____	_____

The undersigned Bidder expressly agrees to the following provisions:

- A. That the Bid Proposal stated shall include the utilization of the Subcontractor(s) and Supplier(s) listed in the List of Subcontractors/Suppliers below.
- B. That the Subcontractor(s) and Supplier(s) listed below shall not be changed by the Bidder unless the Subcontractor(s) or Supplier(s) are unable to perform due to bankruptcy, labor strikes, or termination of business by the Subcontractor(s) or Supplier(s).
- C. That any Subcontractor(s) and Supplier(s) shall be subject to Thornton’s approval.

List below any Subcontractor(s) and Supplier(s) whose contract(s) exceeds ten thousand dollars (\$10,000).

	SUBCONTRACTOR/SUPPLIER	TYPE OF WORK
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		

Attach additional sheet if more space is needed.

SCHEDULE OF CONTRACT PAY ITEMS AND PRICES

Item No.	CDOT Item #	Description	Unit	Qty	Unit Price	Total Price
1	202-00810	Removal of Ground Sign	EA	1		
2	202-00815	Removal of Sign (Special)	EA	13		
3	203-00000	Unclassified Excavation	CY	12		
4	203-01597	Potholing	HR	8		
5	203-01622	Sweeping (with Pickup Broom)	HR	40		
6	207-00205	Topsoil	CY	9		
7	208-00012	Erosion Log Type 1 (9 Inch)	LF	48		
8	208-00020	Silt Fence	LF	50		
9	208-00045	Concrete Washout Structure	EA	3		
10	208-00051	Storm Drain Inlet Protection (Type 1)	LF	30		
11	208-00207	Erosion Control Management	DAY	7		
12	212-00006	Seeding (Native)	AC	0.02		
13	212-00050	Sod	SF	65		
14	212-01200	Landscape Restoration	LS	1		
15	213-00003	Mulching (Weed Free)	AC	0.02		
16	214-00145	Plant Protection Fence	LF	50		
17	217-00020	Herbicide Treatment	HR	16		
18	240-00000	Wildlife Biologist	HR	16		
19	240-00100	Prairie Dog Management	LS	1		
20	601-40007	Cut Stone Veneer (Ashler) (Kiosk)	SF	49		
21	614-000111	Sign Panel (Class I)	SF	1317		
22	614-00040	Sign Post (6 Inch OD Aluminum) (Kiosk)	LF	18		
23	614-000401	Sign Post (3.5 Inch OD Steel) (Map Board-New)	LF	162		
24	614-00214	Steel Sign Post (2.0x2.0 Inch Tubing)	LF	1,371		
25	614-03001	Concrete Footing (Kiosk)	EA	2		
26	614-03002	Concrete Footing (Map Board-New)	EA	7		
27	607-11580	Fence (Temporary)	LF	50		
28	625-00001	Construction Surveying (Hourly)	HR	35		
29	626-00000	Mobilization	LS	1		
30	627-00005	Pavement Marking Paint	GAL	19		
31	630-00012	Traffic Control Management	DAY	5		
32	630-80341	Construction Traffic Sign (Panel Size A)	EA	6		
33	630-80380	Traffic Cone	EA	12		
34	700-70010	F/A Minor Contract Revisions	FA	1		
35	700-70023	F/A On-The-Job Trainee	FA	1		
					TOTAL BASE BID	

SCHEDULE OF CONTRACT ITEMS AND PRICES

Total Base Bid Proposal _____ Dollars

(Words) Cents

(Words)
\$ _____
(Numerals)

Dated this _____ day of _____, 20__.

FIRM NAME _____

By: _____

Title: _____

Bidder's Legal Status _____

State of Organization _____

Firm's Address: _____

Telephone: _____

Email: _____

Witness: (Attest and Seal if Bid Proposal is by Corporation)

CONTRACTOR'S POST QUALIFICATIONS

Must be submitted by the apparent successful Bidder within two (2) Business Days of notification by Thornton. Failure to do so may be cause for Thornton to determine that the apparent successful Bidder is non-responsive and may subject the apparent successful Bidder to forfeiture of its Bid Bond.

Submit to: City of Thornton, Contract Administration
Address: 9500 Civic Center Drive, Thornton, CO 80229
Attention: Keith Griess, Contract Administrator
Email: Keith.griess@thorntonCO.gov
Fax: 303-538-7556

POST-QUALIFICATION QUESTIONNAIRE

1. How many years has your organization been in business as a General Contractor under the present firm's name? _____

2. How many years has your organization been in business under other business name(s)? _____ List other names: _____

3. If a corporation, answer the following:

Date of incorporation: _____

State of incorporation: _____

President: _____

Vice-President(s): _____

Secretary: _____

Treasurer: _____

4. If a partnership, answer the following:

Date of organization: _____

Type of partnership: _____
(General/Limited/Assoc)

Name and address
of all partners: _____

5. If other than a corporation or partnership, describe the organization form and provide the name and address of all principals:

6. List the trades and percent of the total contract you normally perform with your own forces:

Percent of total contract by dollar amount typically self-performed: %

7. Have you ever failed to complete any work awarded to you? If so, indicate when, where, and why below. Have you ever been declared in default on a contract? If “yes”, indicate when, where, and why below.

8. Has any director, officer, or partner of your firm ever been a director, officer, or partner of another organization that failed to complete a construction contract? If “yes”, state circumstances below.

9. Has your firm ever failed to be awarded a contract on which your firm was low bidder?
_____ If “yes”, state when, where, and why below.

10. Has your firm in the past two (2) years, or is your firm at the present time, late in the completion of any projects for a government agency? _____ If “yes”, list all applicable projects and state when, where, and why below.

11. Liquidated damages and/or disputes: List all government or agency projects in the last two (2) years where Liquidated Damages were or may be assessed, and where substantial disputes on projects occurred or are currently occurring. Attach a detailed explanation, using an additional sheet if necessary.

12. Has your firm’s bonding company been contacted in the past two (2) years concerning either the late completion of a project or the non-payment of subcontractors or suppliers? _____ If “yes”, explain the circumstances in detail.

13. List all major construction projects your firm currently has under contract in Colorado on this date:

Project Name _____

Owner _____ Phone Number _____

Architect/Engineer _____ Phone Number _____

Contract Amount _____ Contract Date _____

Percent Complete _____ Original Scheduled Completion Date _____

Change Order Amount to Date _____ Current Scheduled Completion Date _____

Project Name _____

Owner _____ Phone Number _____

Architect/Engineer _____ Phone Number _____

Contract Amount _____ Contract Date _____

Percent Complete _____ Original Scheduled Completion Date _____

Change Order Amount to Date _____ Current Scheduled Completion Date _____

Project Name _____

Owner _____ Phone Number _____

Architect/Engineer _____ Phone Number _____

Contract Amount _____ Contract Date _____

Percent Complete _____ Original Scheduled Completion Date _____

Change Order Amount to Date _____ Current Scheduled Completion Date _____

Project Name _____

Owner _____ Phone Number _____

Architect/Engineer _____ Phone Number _____

Contract Amount _____ Contract Date _____

Percent Complete _____ Original Scheduled Completion Date _____

Change Order Amount to Date _____ Current Scheduled Completion Date _____

Project Name _____

Owner _____ Phone Number _____

Architect/Engineer _____ Phone Number _____

Contract Amount_____Contract Date_____

Percent Complete_____Original Scheduled Completion Date_____

Change Order Amount to Date _____Current Scheduled Completion Date_____

Project Name_____

Owner_____Phone Number_____

Architect/Engineer_____Phone Number_____

Contract Amount_____Contract Date_____

Percent Complete_____Original Scheduled Completion Date_____

Change Order Amount to Date _____Current Scheduled Completion Date_____

Project Name_____

Owner_____Phone Number_____

Architect/Engineer_____Phone Number_____

Contract Amount_____Contract Date_____

Percent Complete_____Original Scheduled Completion Date_____

Change Order Amount to Date _____Current Scheduled Completion Date_____

Project Name_____

Owner_____Phone Number_____

Architect/Engineer_____Phone Number_____

Contract Amount_____Contract Date_____

Percent Complete_____Original Scheduled Completion Date_____

Change Order Amount to Date _____Current Scheduled Completion Date_____

Project Name_____

Owner_____Phone Number_____

Architect/Engineer_____Phone Number_____

Contract Amount_____Contract Date_____

Percent Complete_____Original Scheduled Completion Date_____

Change Order Amount to Date _____Current Scheduled Completion Date_____

Project Name_____

Owner_____Phone Number_____

Architect/Engineer _____ Phone Number _____

Contract Amount _____ Contract Date _____

Percent Complete _____ Original Scheduled Completion Date _____

Change Order Amount to Date _____ Current Scheduled Completion Date _____

(Attach additional sheet if necessary.)

14. List major construction projects similar to this Project that your firm has completed in Colorado in the past three (3) years. Bidder must have significant, recent, similar, experience to be considered qualified.

Project Name _____

Owner _____ Phone Number _____

Architect/Engineer _____ Phone Number _____

Original Contract Amount _____ Final Contract Amount _____

No. of Change Orders _____ Contract Date _____

Original Completion Date _____ Actual Completion Date _____

Project Name _____

Owner _____ Phone Number _____

Architect/Engineer _____ Phone Number _____

Original Contract Amount _____ Final Contract Amount _____

No. of Change Orders _____ Contract Date _____

Original Completion Date _____ Actual Completion Date _____

Project Name _____

Owner _____ Phone Number _____

Architect/Engineer _____ Phone Number _____

Original Contract Amount _____ Final Contract Amount _____

No. of Change Orders _____ Contract Date _____

Original Completion Date _____ Actual Completion Date _____

Project Name _____

Owner _____ Phone Number _____

Architect/Engineer _____ Phone Number _____

Original Contract Amount_____Final Contract Amount_____
No. of Change Orders_____Contract Date_____
Original Completion Date_____Actual Completion Date_____

Project Name_____
Owner_____Phone Number_____
Architect/Engineer_____Phone Number_____
Original Contract Amount_____Final Contract Amount_____
No. of Change Orders_____Contract Date_____
Original Completion Date_____Actual Completion Date_____

Project Name_____
Owner_____Phone Number_____
Architect/Engineer_____Phone Number_____
Original Contract Amount_____Final Contract Amount_____
No. of Change Orders_____Contract Date_____
Original Completion Date_____Actual Completion Date_____

Project Name_____
Owner_____Phone Number_____
Architect/Engineer_____Phone Number_____
Original Contract Amount_____Final Contract Amount_____
No. of Change Orders_____Contract Date_____
Original Completion Date_____Actual Completion Date_____

Project Name_____
Owner_____Phone Number_____
Architect/Engineer_____Phone Number_____
Original Contract Amount_____Final Contract Amount_____
No. of Change Orders_____Contract Date_____
Original Completion Date_____Actual Completion Date_____

Project Name_____

Owner _____ Phone Number _____
Architect/Engineer _____ Phone Number _____
Original Contract Amount _____ Final Contract Amount _____
No. of Change Orders _____ Contract Date _____
Original Completion Date _____ Actual Completion Date _____

(Attach additional sheet if necessary.)

15. List the years of construction experience of all the principal individuals in your organization located in Colorado. Identify those individuals that will be assigned to this Project by indicating the percent of their time to be dedicated to this Project.

<u>Name</u>	<u>Position</u>	<u>Yrs. Experience</u>	<u>% Time</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

16. Provide resumes of your proposed Project Manager and Superintendent and include references for each from owners and consulting engineers or architects for their last three (3) projects. Of the similar completed projects listed previously, indicate which were worked on by your proposed Project Manager and Superintendent.
17. Include a proposed project organization chart showing key staff, their area of responsibility, and the date they will be available to begin Work on the Project.
18. List major equipment available for this Project:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

19. Indicate the firm’s resources available for cost estimating, scheduling, project management (document and issue tracking), procurement, and cost tracking, including software utilized and the staff member(s) assigned to this Project that have expertise in its use.

20. List other key Subcontractors and suppliers likely to provide services and/or materials on this Contract which were not listed on the Bid Proposal Form:

Subcontractor/Supplier	Service/Materials

21. Describe project approach and provide a proposed outline construction schedule with sufficient detail to identify the major tasks and construction Milestone Dates to accommodate Thornton’s desired Substantial Completion Date.

(Use additional sheet if necessary.)

22. Safety Record:

- a. Provide the firm's Incidence rate of non-fatal occupational injuries and illnesses per one hundred (100) full time workers (Total Recordable Cases or TRC rate) as defined by the Bureau of Labor Statistics Table 1 over the prior three (3) year period. Refer to <http://www.bls.gov/iif/oshsum.htm>, Yr. 1_____, Yr. 2_____, Yr. 3_____.
- b. Provide the Incidence rate of non-fatal occupational injuries and illnesses per one hundred (100) full-time workers (Total Recordable Cases or TRC rate) as defined by the Bureau of Labor Statistics Table 1 over the prior three (3) year period for the projects on which the proposed Superintendent or Project Manager worked (depending on who is assigned site safety responsibility in the Contractor's organization). Yr. 1_____, Yr. 2_____, Yr. 3_____.
- c. Provide the firm's Workers' Compensation Experience Modification Rate Factor (EMRF) for the prior three (3) years from the National Council on Compensation Insurance, Inc. (NCCI, www.ncci.com). _____

- d. Indicate the number of fatal accidents that occurred on any of your firm's projects in the last three (3) year period. _____. Describe circumstances and whether any corrective action was required or if any fines were levied by OSHA or other governmental agency.

A TRC rate in excess of the national average in any given year for the applicable industry or an EMRF in excess of 1.2 in any given year may be cause for disqualification.

23. Describe any experience by the firm or key staff with partnering, both formal and informal. Highlight the partnering experience by key staff proposed for this Project. Indicate if the firm plans to conduct any partnering sessions on this Project.

(Use additional sheet if necessary.)

24. List states and categories in which the firm is legally qualified or licensed to do business.

25. Bank References:

- a. Provide the contact name, bank name and address, and telephone number of the firm's banking references.

_____	_____	_____
_____	_____	_____
_____	_____	_____

- b. Provide a letter of reference from the firm's primary operating bank.

26. Trade References - Provide the contact name, company name and address, and telephone number of subcontractors and suppliers frequently used by your firm:

_____	_____	_____
_____	_____	_____
_____	_____	_____

27. Bonding Company:

- a. Provide the name, address, and telephone number of the firm's bonding agent.

- b. Provide a letter from the bonding agent indicating the firm's bonding capacity and that it is adequate to undertake this Work. Indicate what portion remains of this bonding capacity at the time of Post-qualification submittal.

28. Insurance Company:

- a. Provide the name, address, e-mail addresses, and telephone number of the firm's insurance agent(s) and the names and ratings of the insurance companies.

Worker's Comp: _____

General Liability: _____

Builder's Risk and/or Installation Floater: _____

Auto Liability: _____

Other: _____

- b. Provide certificate(s) of insurance outlining coverage and policy limits.
- c. Indicate if any of the coverages can be increased, and whether there are any current claims that will affect coverage limits available to Thornton for this Project.

29. In a separate sealed envelope labeled with the Project Name and Project Number, the firm's name, the date submitted, and marked "CONFIDENTIAL – CLAIM AND LITIGATION RECORD", provide the following:

- a. A list of the construction projects, along with address and telephone number of the owner, to which the firm or any of the firm's directors, partners, or officers were party in their role as director, partner, or officer of the firm, during the previous ten (10) years if such projects were the subject of formal arbitration or litigation of any type. If the dispute resulted in a confidential settlement agreement, the names of the parties involved may be redacted, but the project must be listed.
- b. Indicate if any judgments have been entered within the last five (5) years against your firm or against any of the firm's directors, partners, or officers related to their role in the performance of construction projects with the firm or with prior construction firms. If so, provide a list of Judgment Creditors, where docketed and date, and amount for each. Indicate if any of the judgments included an award of attorneys' fees as a sanction. If yes, explain why.
- c. A list of current lawsuits that are pending at this time against the firm, or against any of the directors, partners, or officers of the firm related to their role in the performance of construction projects with the firm. Indicate the parties and summarize the nature of the dispute.

30. Was the firm or any of its directors, partners, or officers ever suspended, debarred, or determined to be ineligible from entering into contracts with any federal, state, or local governmental entity? _____ If "yes", give details:

31. Criminal Convictions: Indicate if the firm, or any of its officers, employees, subsidiary companies, or affiliates has pled guilty, nolo contendere, or been convicted of any crimes, including petty offenses, misdemeanors, or felonies, in any jurisdiction in the United States, related to perjury, bidding, labor, taxes, wages, safety, environmental, or performance of construction contracts within the past five (5) year period.

32. Financial Capacity:

By submission of the Post-Qualification Affidavit, the bank letter of reference, and the bonding company letter required herein, the Bidder certifies that it has adequate financial capacity to perform the Work in accordance with the Contract Documents.

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SPECIAL CONDITIONS

Table of Contents

1. ACCESS BY PRIVATE PROPERTY OWNERS
2. ACCESS TO PUBLIC FACILITIES
3. APPROPRIATIONS
4. CLEANUP
5. CONCRETE SPECIFICATIONS
6. CONTINUATION OF UTILITY SERVICE
7. CONTRACT SIGNATURE
8. CONTRACTOR'S DAILY SITE REPORTS
9. CONTRACTOR'S SCHEDULE OF WORK
10. DAVIS-BACON WAGE ACT/EQUAL OPPORTUNITY
11. DUMP/DISPOSAL SITES
12. EMERGENCY PROTECTION
13. EXISTING ABOVE GROUND AND UNDERGROUND UTILITIES,
FACILITIES, AND EASEMENT LOCATIONS
14. FIELD INSPECTIONS AND QUALITY ASSURANCE TESTING
SCHEDULING
15. GRADES AND ALIGNMENT
16. INSURANCE

17. LICENSES AND PERMITS
18. LOCATION OF PROJECT
19. MEASUREMENT FOR PAYMENT
20. MOBILIZATION
21. PRODUCT SUBSTITUTIONS
22. PROJECT MEETINGS
23. PROTECTION OF PUBLIC AND PRIVATE PROPERTY
24. QUALITY ASSURANCE INSPECTION AND TESTING
25. RECORDKEEPING AND AUDITS
26. SALVAGEABLE MATERIALS
27. SOILS TESTS
28. STAGING AREA
29. STOCKPILING MATERIAL OR EQUIPMENT
30. SUBMITTALS, SHOP DRAWINGS, AND SAMPLES
31. TEMPORARY ACCESS AND SAFE TRAVEL MAINTENANCE
32. TRAFFIC CONTROL
33. WATER USE

1. ACCESS BY PRIVATE PROPERTY OWNERS

Contractor shall insure that property owners' access from the street to their property is not restricted except during limited times during Contractor's normal working hours. When access to a private property cannot be continuously maintained during normal working hours, the Contractor must personally provide written and verbal notice to the affected property owners a minimum of twenty-four (24) hours in advance of the closure. Emergency vehicle access shall not be blocked at any time for any reason.

2. ACCESS TO PUBLIC FACILITIES

The Contractor shall assure that safe access to public facilities including, but not limited to, parking lots, picnic shelters, playgrounds, and pedestrian ways, is provided. Any disruption to the public's normal use of such facilities shall not occur without the express written permission of Thornton.

3. APPROPRIATIONS

Pursuant to C.R.S. § 24-91-103.6, as may be amended from time to time, the amount of money appropriated by Thornton for this Contract is equal to or in excess of the original Contract Price. No Change Order or other form of order or directive by Thornton requiring additional compensable Work to be performed, which Work causes the aggregate amount payable under the Contract to exceed the amount appropriated for the original Contract, shall be issued unless the Contractor is given written assurance by Thornton that lawful appropriations to cover the cost of the additional Work has been made or unless such Work is covered under the remedy-granting provision of this Contract.

In the event that the Thornton City Council reduces the appropriation or fails to appropriate additional funds should they be needed for the continuation of this Contract, Thornton may, upon prior written notice as provided for herein, terminate this Contract without penalty and thereupon be released of further obligations pursuant thereto.

4. CLEANUP

The Contractor shall make every effort to contain its operations to the smallest area possible. All areas which have been disturbed shall be returned to their original grade and condition, or better. Contractor shall clean all streets and sidewalks affected by its construction in accordance with Thornton's Standards and Specifications for the Design and Construction of Public Improvements, Latest Edition. Contractor shall have Construction Equipment available on the Project site, including sweepers, hoses and other items, as necessary, to clean up at least on a daily basis during construction, or as required or otherwise directed by Thornton.

5. CONCRETE SPECIFICATIONS

This specification represents Thornton's minimum standards in regards to installation, movement, cracking, finish, replacement requirements, and overall appearance of concrete flatwork. This specification is not a complete specification, but is intended to supplement Project specific specifications. In the event of a conflict between this specification and any other project or nationally recognized specification including, but not limited to, ADA, AASTHO, COT standards, and CDOT standards, the more stringent specification shall apply.

This specification is applicable for exterior flatwork including, but not limited to, sidewalk, curb and gutter, cross pans, handicap ramps, and general exterior flatwork such as plazas. This specification is not applicable to bus pads, railroad crossings, or road pavements.

The following minimum standards shall apply to all Work performed. Any concrete not within these minimum standards shall be replaced or, in Thornton's sole discretion, ground smooth. The Contractor shall perform all repair or replacement Work at no cost to Thornton.

A. Deviation from Design Slope

Deviation from design slope in any direction shall not exceed plus or minus 0.25%. Notwithstanding the foregoing, in no case shall deviation from design slope cause water to pond.

B. Surface Tolerance within Design Slope

1. Deviation of Pavement in Longitudinal Direction:

Except at curb and gutter transitions to inlets, the gap below a 10' straightedge resting longitudinally on high spots shall not exceed $\frac{1}{4}$ ". On tangent roadway alignments and curves with greater than 1,000', and on sharp vertical curves and horizontal curves with radius of 1,000' or less. The total maximum allowable deflection shall be 0.25" from the edge of the straightedge with allowance made for curve deflection. Should the length of the longitudinal segment or segments being measured not accommodate a 10' straightedge, a shorter straightedge shall be used and the allowable gap shall be proportioned accordingly.

2. Deviation of Pavement in Transverse Direction:

The gap below a 10' straightedge resting on high spots shall not exceed $\frac{1}{4}$ ". Should the width of the transverse direction being measured not accommodate a 10' straightedge, a shorter straightedge shall be used and the allowable gap shall be proportioned accordingly.

3. Deviation in Surface Tolerance of Ramps, Sidewalks, Curb and Gutter, and Intersection Cross Pans:

In any direction, the gap below a 10' straightedge resting on high spots shall not exceed $\frac{1}{4}$ ". Should the length of the direction being measured not accommodate a 10' straightedge, a shorter straightedge shall be used and the allowable gap shall be proportioned accordingly.

C. Movement of ramps, sidewalks, curb and gutter, and intersection crossspan occurring after placement, but before the end of the Warranty Period:

1. Lateral, (horizontal) movement shall not exceed $\frac{1}{4}$ " from original approved lines.
2. Differential settlement or heaving, in any direction, within a monolithic segment or between adjacent segments separated by a control joint, expansion joint, or construction joint, shall not exceed $\frac{1}{4}$ " in any 10' length.

Any concrete not within the $\frac{1}{4}$ " tolerance shall be replaced or ground smooth at Thornton's sole option, by the Contractor at no cost to Thornton. Notwithstanding the above, any settlement or heaving that causes water to pond shall be cause to remove and replace, or with Thornton's approval to grind the concrete, to restore proper drainage.

D. Cracks

All concrete shall be installed with tooled or saw cut control joints meeting requirements of the Project specifications and/or Thornton standards. Joints at construction joints shall be tooled. Joints shall be tooled or cut while concrete is still green and prior to the appearance of any shrinkage cracks and shall be made to a depth of at least $\frac{1}{4}$ " of the total thickness of the concrete. Cracks of any size, width, or length that does not fall within the width of the tooled or saw cut control joint are not acceptable. All concrete panels or segments with cracks not within the tooled or saw cut joints shall be replaced by the Contractor at no cost to Thornton.

E. Damaged Concrete

All chipped, scratched, grooved, spalled, pitted, honeycombed, vandalized, or concrete damaged in any way shall be replaced by the Contractor at no additional cost to Thornton.

F. Surface Finish

1. The Contractor shall screed, float, and trowel smooth all concrete prior to final finish. The surface finish of all concrete shall be uniform, even,

level, and esthetically pleasing as shall be determined by Thornton. The quality of the surface finish shall be equivalent to that routinely achievable by a highly competent concrete finisher comparable to a journeyman skill level.

2. All concrete flatwork shall have light broom finish unless otherwise specified. The broom grooves shall be straight to a tolerance of 1/2" maximum lateral deviation (1/4" either side of a straight edge) in any 5' length and not more than 1/16" in depth. The Contractor shall clean the broom between each pass so that broom finish is clean, consistent, and esthetically pleasing. If concrete finish becomes rough, uneven, deeply grooved, or in any way visually unpleasing in the sole opinion of Thornton, the Contractor shall replace the affected panels at no cost to Thornton.

G. Replacement of all Defective Concrete

All replaced concrete shall be uniformly tied into the existing concrete on each side of the replaced concrete section and shall adhere to all specifications and tolerances. Removal of concrete for replacement shall be to the nearest existing control joint, construction joint, or expansion joint in either direction, or if prior approval is obtained from Thornton to a new saw cut joint; provided however, no resulting sidewalk or curb and gutter segments shall be less than 5' from control joint to control joint in length. All edges shall be saw cut cleanly with no chips or spalling in existing concrete to remain. Saw cut edges shall be parallel and perpendicular to the existing work. Saw cut joints shall not over cut into existing material to remain. Should any concrete become chipped, cracked, or damaged in any way during removal, the Contractor shall remove and replace this damaged concrete back to the next control joint at no additional cost to Thornton. Curb and gutter replacement and segments shall be tied to existing curb and gutter on each side of the replaced segment with two (2) dowels (#4 rebar x 2' long), one (1) placed under the gutter section and one (1) placed under the curb section of the repair. These dowels will be epoxy anchored into the existing curb and gutter by means of drilling horizontally a 1' long hole with a diameter as recommended by the epoxy manufacturer for #4 rebar and anchoring the dowels in the hole using Hilti HY-150 or approved equal epoxy adhesive. The remaining 1' of the dowel will be embedded in the replacement curb and gutter section. The dowels will be evenly spaced in the pan section of the curb and gutter so as to provide a minimum of 2 1/2" of concrete cover on all sides.

H. Curing and Weather Protection

All concrete shall be cured and protected from the weather per Project specifications or per Thornton Standard Specifications sections 607 and 608, whichever is more stringent.

6. CONTINUATION OF UTILITY SERVICE

Utility service shall be maintained to all areas at all times during construction of the Work, except when it is necessary to shut down a line to make a connection with a new line. Residents shall be given twenty-four (24) hours written and verbal notice by the Contractor when it is known that their service will be interrupted. The appropriate Fire Rescue Authority shall be kept advised of the status of all fire hydrants affected by any Work.

7. CONTRACT SIGNATURE

The Contractor shall return the W-9 Forms, all appropriate Bonds, Insurance Certificates, and Additional Insured Endorsements, and sign the contract **within ten (10) Calendar Days of receipt of Notice of Award.**

8. CONTRACTOR'S DAILY SITE REPORTS

The Contractor shall submit a Daily Site Report to Thornton by 8:00 a.m. each Work day for the previous Work day. If the Contractor fails to comply with this requirement, Thornton may reject any pending Applications for Payment until the Contractor submits all reports that are due. The report shall, at a minimum, describe:

- A. Type(s), location(s), quantity(s), and progress of Work performed consistent with the Schedule of Contract Items and Prices as defined by the Contract Documents;
- B. On-site labor for craftsman by craft, Subcontractor, supervision, and office personnel, with activities performed, number of personnel and hours worked on each activity;
- C. Construction Equipment (number, type, and hours) utilized on-site and for which activities;
- D. Type(s) and quantity(s) of Material and Equipment incorporated into the Work;
- E. Unanticipated problems encountered;
- F. Climatic data (temperature, precipitation, wind) for morning and afternoon;
- G. Accidents;
- H. Damage to in-place Work;
- I. Materials or Equipment received at the Project site;

- J. Results of any testing;
- K. Any unforeseen conditions or any Work which Contractor believes may be eligible for additional compensation or extra time. If Contractor notes any Work which it believes may be eligible for additional compensation or extra time, Contractor shall obtain Thornton's Representative's initials and date on the relevant section of the Daily Site Report prior to submission to Thornton and shall immediately follow the procedures described in the Contract under Changed or Extra Work, Claims for Extra Costs, and/or requests for an extension of the Contract Time. Thornton's Representative's initials on the Daily Site Report shall not constitute approval of any claim for extra cost or time, but shall merely indicate the date the Contractor knew or should have known of a potential claim; and
- L. Other notable events.

9. CONTRACTOR'S SCHEDULE OF WORK

The Contractor shall submit for review by Thornton, within fourteen (14) Calendar Days from Notice of Award, its baseline Schedule of Work in graphic bar chart form ("Schedule of Work"). This Schedule of Work shall be the Contractor's working schedule and shall be used to plan, organize, and execute the Work, record and report the progress of the Work, and forecast remaining Work. The Contractor shall be responsible for assuring that all Subcontractor Work and acquisition and delivery of Materials and Equipment, as well as its own Work, are included in the Schedule of Work and that the Schedule of Work represents a coordinated plan of Work. The Schedule of Work shall be periodically updated as required herein.

The Schedule of Work shall clearly show all intermediate Milestone Dates, Substantial Completion of the Work, procurement, fabrication, and construction activities, activity descriptions and durations, activity start and finish dates, specified phasing and sequencing requirements, and the proposed sequence of activities required for the orderly performance and completion of all elements of the Work. The selection and number of activities shown on the Schedule of Work shall be subject to Thornton's review and acceptance. Activity durations shall be in Calendar Days, and in general, shall not be less than one (1) Calendar Day nor exceed fourteen (14) Calendar Days. Seasonal weather conditions, holidays, long lead time procurements, and other contingencies shall be considered in the planning and scheduling of the Work. The Contractor, at its option, may provide a Critical Path Method (CPM) schedule. The Contractor's attention is called to the General Conditions section titled Extension of Contract Time, which requires a CPM schedule analysis to substantiate a request for extension of Contract Time, even if the Contractor does not provide a CPM schedule for all of the Work.

Acceptance of the Schedule of Work by Thornton shall be a Condition Precedent to the making of any progress payments to the Contractor. Acceptance of the Schedule of Work by Thornton; however, shall not relieve the Contractor of its sole responsibility for

the accuracy or feasibility of the Schedule of Work, or of its sole responsibility to complete the Work in accordance with the Contract Documents, nor does such acceptance by Thornton warrant, acknowledge or admit the reasonableness of durations, sequence, or logic of the Schedule of Work.

The Schedule of Work shall be monitored on a weekly basis and up-dated on a bi-weekly basis to incorporate actual start and finish dates, to record actual progress achieved during the reporting period, and to provide a more accurate schedule of the next period's Work. A copy of the then current up-dated Schedule of Work shall be submitted to Thornton with the Contractor's Application for Payment (as defined by Special Conditions - Measurement for Payment and General Conditions - Progress Payments). The then current Schedule of Work shall be accompanied by a written narrative, which shall address the status of major activities, the impact of Change Orders, the impact of delaying events, if any, activities that are behind schedule, and actions that are being taken to improve progress and attain compliance with the Contract Time for completion of the Work.

If at any time the Contractor's progress is determined by Thornton to be inadequate to meet Milestone Dates, achieve the Substantial Completion Date or otherwise comply with the Contract Documents, Thornton may notify the Contractor. Upon receipt of such notice, the Contractor shall immediately take all steps necessary to improve the progress of the Work so that it will meet the Milestone Dates and the Substantial Completion Date and otherwise comply with the Contract Documents. Thornton reserves the right to require the Contractor to prepare a well-defined recovery schedule in order to insure that Substantial Completion and/or any Milestone Dates are met.

If, within a reasonable period of time after notice is given as outlined above, Thornton determines that the Contractor has not sufficiently improved progress, Thornton may require the Contractor to, at the Contractor's expense and at no additional cost to Thornton, increase the Contractor's work force, work additional hours per day or days per week, increase the number of shifts per day, or increase the amount of Construction Equipment. Neither such notice by Thornton nor Thornton's failure to issue such notice shall relieve the Contractor of its obligation to achieve the quality of Work and rate of progress required by the Contract Documents. The Contractor shall not be entitled to any additional compensation for acceleration or other costs it may incur.

10. DAVIS-BACON WAGE ACT/EQUAL OPPORTUNITY

The Contractor is required to comply with the Davis-Bacon Wage Act and Equal Opportunity Clause.

11. DUMP/DISPOSAL SITES

The Contractor shall be responsible for locating disposal and dump sites and making arrangements for disposal of all material removed from the Project site. This includes concrete, asphalt, unsuitable or unstable trench material, and any other trash, rubbish, or debris generated as a result of the construction of the Work. Asbestos or other

hazardous materials will be disposed of in accordance with any and all applicable laws and regulations. The Contractor shall promptly submit copies of the disposal manifests to Thornton to demonstrate proper disposal of all materials.

12. EMERGENCY PROTECTION

- A. After the Notice to Proceed has been issued and continuing through Initial Acceptance, the Contractor shall be solely responsible for protection and safety of the public and the Contractor's/Subcontractor's workers, twenty-four (24) hours a day, seven (7) days a week. Contractor shall also be solely responsible after Initial Acceptance when the Contractor is on the Project site performing any Warranty Work.
- B. Whenever, in the opinion of Thornton, the Contractor has not taken sufficient precaution for the safety of the public or the protection of the Work, or of adjacent structures or property, and whenever, in the opinion of Thornton, an emergency has arisen and immediate action is considered necessary, then Thornton, with or without notice to the Contractor, may provide suitable protection by causing Work to be done and Materials and Equipment to be furnished and placed. The cost of such Work and Materials and Equipment shall be borne by the Contractor, and if not paid on presentation of the bills, such costs will be deducted from any amounts due or that become due the Contractor. The performance of such emergency Work shall not relieve the Contractor of responsibility for any damage which may occur.

13. EXISTING ABOVE GROUND AND UNDERGROUND UTILITIES, FACILITIES, AND EASEMENT LOCATIONS

- A. Contractor shall timely notify the "Notification Association" as may be required by Section 9-1.5-101, C.R.S., et. seq. regarding location of utilities and utility easements. Contractor shall request a written record of any information from all owners or operators, other than Thornton, of underground facilities (as defined in the statute) regarding the location of the specific underground facilities. Contractor shall comply with all requirements of Article 1.5 of Title 9, C.R.S. as it pertains to the "excavator".
- B. Contractor shall ascertain and notate the following on the Contractor's record Drawings regarding all utilities, facilities, and utility easements:
 - 1. Shown correctly on Contract Documents (marked correctly in field, marked incorrectly in field);
 - 2. Shown within a range on Contract Documents (marked correctly in field, marked incorrectly in field);
 - 3. Shown incorrectly on Contract Documents (marked correctly in field, marked incorrectly in field);

4. Not shown at all on Contract Documents, but marked in field; and
 5. Not shown on Contract Documents and not marked in field.
- C. Thornton shall not be responsible for the accuracy or completeness of any information provided by third-party owners or operators of underground utilities and facilities, whether shown on the Contract Documents and/or located in the field. Contractor shall be responsible to determine the location of all underground utilities and facilities. Thornton will reimburse the Contractor for such underground investigations, such as potholing, as defined in the Schedule of Contract Items and Prices.
- D. The center-line locations of underground utilities and facilities which are owned or operated by Thornton are shown in the Contract Documents. As part of the Work, Contractor shall, on behalf of Thornton, mark the actual location of such utilities and facilities on the Contractor's record documents to the extent the actual location varies from the location shown in the Contract Documents.
- E. In the event that the Contract Documents indicate that the location of any underground utilities or facilities are "unknown", "uncertain", or within a "range", the Contract Price shall include, and Contractor shall have full responsibility for, determining the exact location of such underground utilities and facilities by "potholing," "handwork," or such other means as may be necessary to determine the precise location without damaging them. The precise location of such underground utilities and facilities shall be incorporated into the record drawings maintained by the Contractor.
- F. Contractor shall notify Thornton immediately and request further direction if a utility or facility shown in the Contract Documents or marked in the field cannot be found by potholing or handwork within 18" horizontally from the exterior edges of the expected utility location.
- G. The cost of all of the following will be included in the Contract Price, and Contractor shall have sole responsibility for:
1. Reviewing and checking all information and data provided by all owners or operators of underground utilities and facilities;
 2. Locating all underground utilities and facilities within 18" horizontally from the exterior edges of the expected utility location shown or indicated in the Contract Documents or marked in the field;
 3. Coordination of the Work with the owners and operators of all underground utilities and facilities during construction; and
 4. The safety and protection of all such underground utilities and facilities and repairing any damage thereto resulting from the Work.

- H. If an underground utility or facility is uncovered or revealed, whether by field locates or by construction activities at or contiguous to the Project site, which was not shown or indicated in the Contract Documents, the Contractor shall promptly after becoming aware thereof and before further disturbing conditions effected thereby or performing any Work in conjunction therewith (except in emergency situations), identify the owner of such underground utility or facility and give written notice of the discovery to that owner, the "Notification Association," and Thornton. The location of all such underground utilities and facilities shall be incorporated into the record drawings maintained by Contractor. Thornton will promptly review the underground utility or facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of its existence. During such time, Contractor shall be solely responsible for the safety and protection of such underground utility or facility.
- I. Contractor shall be allowed an adjustment in the Contract Price, Contract Time, or both, to the extent that it is necessitated by the existence of any underground utility or facility that is not shown in the Contract Documents or is not field located within 18" horizontally from the exterior edges of the expected location, and that the Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated; provided, however, that the Contractor is performing the Work in the correct location, including both horizontal alignment and elevation, and in accordance with the Contract Documents, and has adequately performed required potholing or hand excavation in advance of construction. If Thornton and Contractor are unable to agree on entitlement to or the amount or length of any adjustment in the Contract Price or Contract Time, Contractor may make a claim in accordance with the claim procedures set forth in the Contract Documents. In no event shall Thornton be liable to Contractor for any claims, costs, losses, lost profits or damages incurred or sustained by Contractor on or in connection with any other project or anticipated project of Contractor.

14. FIELD INSPECTIONS AND QUALITY ASSURANCE TESTING SCHEDULING

Contractor must provide a minimum of two (2) Business Days' notice to Thornton and Thornton's Representative to schedule any required field inspections or tests. Failure to give two (2) Business Days' notice may result in a delay in the required inspection or testing. If two (2) Business Days' notice is not provided, the Contractor will not be entitled to a claim for additional Contract Time and will not be relieved of required acceptance inspections or tests of any finishing, Materials or Equipment.

15. GRADES AND ALIGNMENT

- A. Thornton established permanent horizontal and vertical control points as indicated on the Drawings. The Contractor shall be responsible for the full layout of grades and alignment governing construction of the Work. Adequate information for establishing lines and grades and location for all Work items have

been specified on the Drawings. Although the best information available regarding existing utility alignments and grades is shown on the Drawings, the Contractor shall be responsible for verifying and determining exact locations, dimensions, depths, and existing materials prior to construction. The Contractor shall verify the location of all existing underground utilities and facilities far enough in advance of new Work installation to allow for possible grade, depth, alignment, or Material changes necessary to avoid conflicts.

- B. All horizontal and vertical control points established to control construction of the Work shall be carefully preserved by the Contractor, and in case of their destruction or obliteration, such control points will be replaced at the Contractor's expense without reimbursement by Thornton.

16. INSURANCE

- A. The Contractor agrees to procure and maintain in force during the term of this Contract, at its own cost, the following coverages:

1. Workers' Compensation Insurance as required by the Labor Code of the State of Colorado and Employer's Liability Insurance. Evidence of qualified self-insured status may be substituted.
2. Commercial General Liability Insurance **(MINIMUM LIMITS)**
 - (a) Each Occurrence \$2,000,000.00
 - (b) Products/Completed Operations Aggregate \$2,000,000.00
 - (c) Personal and Advertising Injury \$2,000,000.00
 - (d) General Aggregate \$5,000,000.00

The policy shall include coverage protecting against bodily injury, property damage, and personal injury claims arising from the exposures of (1) premises-operations; (2) products and completed operations including materials designed, furnished and/or modified in any way by Contractor; (3) independent subcontractors; (4) contractual liability risk covering the indemnity obligations set forth in this Contract; and (5) where applicable, liability resulting from explosion, collapse, or underground exposures.

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination or completion of the Contract. The insurance shall provide for a retroactive date of placement prior to or coinciding with the effective date of the Contract.

3. Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000) for any one (1) occurrence. This insurance will insure against bodily injury and/or property damage arising out of the Contractor's operation, maintenance, use, loading or unloading of any auto including owned, non-owned, hired and employee autos.
 4. Other insurance, with varying limits, which from time to time, may reasonably be required by the mutual agreement of Thornton and Contractor against other insurable hazards relating to the Work to be done, shall be provided.
- B. Contractor shall procure and maintain the minimum insurance coverages listed herein. Such coverages shall be procured and maintained with forms and insurers acceptable to Thornton. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor. If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination or completion of the Contract. The insurance shall provide for a retroactive date of placement prior to or coinciding with the effective date of the Contract.
- C. Contractor shall cause any Subcontractor to procure and maintain adequate levels of insurance coverage for Workers' Compensation, Commercial General Liability, Automobile Liability, and other coverages Contractor may require. Contractor shall prepare a schedule of required coverages for each of its Subcontractors and shall submit such schedule to Thornton prior to any Subcontractor commencing any Work under the Contract. Such coverages for any Subcontractors shall be procured and maintained with forms and insurers acceptable to Thornton. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor.
- D. The Contractor shall name Thornton, its officer, agents, and employees as additional insureds for completed operations with respect to the Commercial General Liability and Auto Liability coverages above. A Certificate of Insurance shall be completed and forwarded, along with the Additional Insured Endorsements, to Thornton by the Contractor's Insurance Agent(s) as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect and shall be subject to review and approval by Thornton **prior to commencement of any Work under this Contract.** The initial completed Certificate(s) of Insurance and Additional Insured Endorsement(s) shall include the Contractor's e-mail address for future inquiries and updates, and shall be sent to:

City of Thornton
 Keith Griess, Contract Administrator
 9500 Civic Center Drive
 Thornton, CO 80229-4326

Subsequent Certificates of Insurance indicating renewal of coverage(s) shall be sent to Thornton's Risk Manager at certificatesofinsurance@thorntonCO.gov no later than thirty (30) Calendar Days prior to the expiration date. Indicate "Renewal COI" and the Project Number in the e-mail subject line.

- E. Failure on the part of the Contractor or a Subcontractor to procure or maintain policies providing the required coverages, terms, conditions, and minimum limits shall constitute a material breach of Contract upon which Thornton may immediately terminate the Contract. At its discretion, Thornton may procure or renew any such policy or any extended reporting period and may pay any and all premiums in connection therewith, and all monies paid by Thornton shall be repaid by Contractor to Thornton upon demand, or Thornton may offset the cost of the premiums against any monies due or to become due to Contractor from Thornton. In addition to the foregoing, in the event any coverage required by the Contract expires or is cancelled during the term of the Contract, the Contractor shall be required, without further notice from Thornton, to suspend the Work at 12:00 a.m. on the date of insurance expiration or cancellation, and may not resume Work until the required insurance coverage is obtained and evidence of such coverage is submitted to and approved in writing by Thornton. The Contractor shall not be entitled to any compensation therefor, including compensation for delay. The Contract Time shall continue to run during such suspension period and the Contractor shall remain fully responsible for any Liquidated Damages that are assessed as a result of late performance. During such suspension of Work the Contractor remains responsible for all safety and protection of persons and property under the Contract.
- F. Thornton reserves the right to request and receive a certified copy of any policy and any endorsement thereto. Contractor agrees to execute any and all documents necessary to allow Thornton access to any and all insurance policies and endorsements pertaining to the Work.
- G. Every policy required above shall be primary insurance, and any insurance carried by Thornton, its agents, officers, or employees shall be excess and not contributory insurance to that provided by the Contractor. The Contractor shall be solely responsible for any deductible losses under the required policies and such deductible losses shall not be billed to Thornton.
- H. The Contractor shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to the Contract by reason of its failure to procure

and maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types.

- I. The Parties understand and agree that Thornton, its agents, officers, and employees, are relying on, and do not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as may be amended, or otherwise available to Thornton, its agents, officers, or employees.
- J. The Contractor shall provide Products and Completed Operations Liability Insurance and name Thornton as an additional insured for a minimum of one (1) year after the date of Final Acceptance. The Contractor shall continue to provide evidence of such coverage by submission of a Certificate of Insurance to Thornton no later than thirty (30) Calendar Days prior to the scheduled expiration of such coverage. Additional Insured endorsements shall indicate applicable Products and Completed Operations coverage.
- K. All policies shall include a provision that the coverages afforded under the policies shall not be canceled, terminated, or materially changed prior to the natural termination date until at least thirty (30) Calendar Days prior written notice has been sent to Thornton. The Certificate(s) shall indicate the form used, if any, under which this provision is included.

17. LICENSES AND PERMITS

- A. The Contractor shall be required to obtain, at its expense, all appropriate licenses from Thornton and/or other governing jurisdictions before the start of construction. A Master Plumber's License is required to perform Work on water and sanitary sewer mains in Thornton. Costs associated with obtaining a Master Plumber's License are the responsibility of the Contractor.
- B. Unless otherwise specified or indicated, all permits necessary for construction of the Work, including federal, state, county, and local permits shall be obtained by and paid for by the Contractor.
- C. If required, the Contractor shall obtain a Building Permit and/or a Traffic Control Permit prior to commencing any construction. The Contractor shall obtain a Construction Permit prior to any construction.
- D. Building Permits are obtained from the City of Thornton City Development Building Inspection Division located at 9500 Civic Center Drive, Thornton, CO 80229. Construction Permits are obtained from the City of Thornton City Development Planning Division located at 9500 Civic Center Drive, Thornton, CO 80229. Traffic Control permits are obtained from the City of Thornton

Infrastructure Department Traffic Division, located at 12450 Washington Street, Thornton, CO 80241. There is no charge to the Contractor for these permits.

18. LOCATION OF PROJECT

The Work is located in the City of Thornton, Colorado.

19. MEASUREMENT FOR PAYMENT

- A. Thornton shall determine all quantities, amounts of Work done, and percentages complete under the Contract. To assist Thornton in determining quantities, the Contractor shall first measure and quantify all Work. At the time quantity measurements are made by the Contractor, Thornton's Representative may be present to verify and agree to such measurements. If Thornton or Thornton's Representative disagrees with Contractor's measurements, Thornton may, at its option, independently measure quantities and adjust payments in accordance with its measurements. The Contractor shall fully cooperate with Thornton in any such endeavor at no additional cost to Thornton.

From quantity figures agreed to by the Parties, it will be the Contractor's responsibility to prepare a monthly Application for Payment for the Work accomplished to date. If the Parties cannot agree on the quantities and the resulting amount of payment, Thornton may, but shall not be obligated to, prepare an Application for Payment on the Contractor's behalf.

Applications for Payment shall be submitted each month, or on another schedule as the Parties may agree upon, on the date designated by Thornton. Failure of the Contractor to timely submit a complete, correct, and certified Application for Payment (accompanied by an updated Schedule of Work) may cause a delay in payment.

By submitting the signed Application for Payment, the Contractor certifies that to the best of the Contractor's knowledge, information, and belief the Work covered by the Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor to its Subcontractors and suppliers for Work for which previous Certificates for Payment were issued and for which payments were received from Thornton, and that the current payment shown in the Application for Payment is now due.

- B. The Contractor shall, along with its monthly Application for Payment for Work completed, submit an estimate of the Work which will be completed during the following month.
- C. When items are specified to be paid for by the ton, the following system will be used:

1. Duplicate tally tickets shall be prepared to accompany each truckload of Material delivered. The tickets shall bear at least the following information:
 - a. Truck number;
 - b. Quantity delivered in tons, cubic yards, or other measurement as applicable;
 - c. Driver's name and date;
 - d. Type of Material; and
 - e. Location of delivery by street and stationing on each street.
2. It is the Contractor's responsibility to see that a ticket is given to Thornton's Representative on the day the delivery occurs for each truckload of Material delivered. Pay quantities will be prepared and approved on the basis of such tally tickets.
3. When the Bid item stipulates quantities by weight, they shall be weighed on scales that are in accordance with the requirements of the State of Colorado for similar use. Certified weight bills shall be furnished by the Contractor to Thornton's Representative at the time of each delivery.

20. MOBILIZATION

- A. The Pay Item price for mobilization shall also include any "start up" or incidental costs necessary to begin the Work, including any necessary Construction Equipment, offices, buildings, Materials or Equipment, personnel that are to be located at the Project site in preparation for the Work, Bonds, Insurance, permits, and any other incidental expenses that cannot otherwise be attributed directly to the other Bid Proposal Pay Items.
- B. Payments for mobilization shall be made on a monthly basis in accordance with the following formula:

Contract Amount Completed		Mobilization Paid
5%	=	25%
10%	=	50%
25%	=	60%
50%	=	100%

- C. The overall Pay Item price for mobilization should not exceed ten percent (10%) of the original Contract Price. If the overall Pay Item price for mobilization exceeds ten percent (10%), and if Thornton does not reject the Bid, Thornton shall have the option of withholding payment of the amount exceeding ten percent (10%) of the Contract Price until the date of Final Payment.

21. PRODUCT SUBSTITUTIONS

- A. This section specifies administrative and procedural requirements for handling requests for substitutions made after Notice of Award.

Requests for changes in products, materials, equipment, and methods of construction required by the Contract Documents proposed by the Contractor after Notice of Award are considered requests for “substitutions”. The following are not considered substitutions:

1. Substitutions requested by Bidders as required by the Bid Documents and accepted by written addendum prior to submittal of a Bid Proposal are considered as included in the Contract Documents and are not subject to requirements specified in this section;
2. Revisions to Contract Documents requested by Thornton;
3. Specified options of products and construction methods included in the Contract Documents; and
4. The Contractor’s determination of and compliance with governing regulations and orders issued by authorities with jurisdiction over the Work.

- B. Substitution Request Submittal: Requests for substitution will be considered if received within thirty (30) Calendar Days after commencement of the Work. Requests received more than thirty (30) Calendar Days after commencement of the Work may be considered or rejected at the sole discretion of Thornton.

Contractor shall submit three (3) copies of each request for substitution to Thornton for consideration. Such requests shall be submitted in the form and in accordance with procedures required for Change Order Proposals.

Contractor shall identify the product or the fabrication or installation method to be replaced in each request and include related Specification sections and Drawing numbers. Contractor shall provide complete documentation showing compliance with the requirements for substitutions and the following information, as appropriate:

1. Product data, including Drawings and descriptions of products, fabrication, and installation procedures;
2. Samples, where applicable or requested;
3. A detailed comparison of significant qualities of the proposed substitution with those of the Work specified. Significant qualities may

include elements such as size, weight, durability, performance, and visual effect;

4. Coordination information, including a list of changes or modifications needed to other parts of the Work and to construction performed by Thornton and separate contractors that will become necessary to accommodate the proposed substitution;
5. The substitution's effect on the Schedule of Work compared to the Schedule of Work without approval of the substitution. Indicate the effect of the proposed substitution on the overall Contract Time;
6. Cost information, including a proposal of the net change, if any, in the Contract Price; and/or
7. Certification by the Contractor that the substitution proposed is equal-to or better in every significant respect to that required by the Contract Documents and that it will perform adequately in the application indicated. Include the Contractor's waiver of rights to additional compensation or time that may subsequently become necessary because of the failure of the substitution to perform adequately.

Thornton's Action: Within seven (7) Calendar Days of receipt of the request for substitution, Thornton shall request any additional information or documentation necessary for evaluation of the request. Within fourteen (14) Calendar Days of receipt of the request, or seven (7) Calendar Days of receipt of the additional information or documentation, whichever occurs later, Thornton will notify the Contractor of acceptance or rejection of the proposed substitution. If a decision on use of a proposed substitute cannot be made or obtained within the time allocated, the Contractor shall use the product specified. Acceptance will be in the form of a Change Order.

- C. Conditions: The Contractor's substitution request will be received and considered by Thornton when the following conditions are satisfied, as determined by Thornton; otherwise requests will be returned without action except to record noncompliance with these requirements:

1. Extensive or costly revisions to the Contract Documents are not required;
2. Proposed changes are in keeping with the general intent of Contract Documents;
3. The request is timely, fully documented and properly submitted;
4. The request is directly related to a "similar products" clause or similar language in the Contract Documents;

5. The specified product or method of construction cannot be provided within the Contract Time. The request will not be considered if the product or method cannot be provided as a result of the Contractor's failure to pursue the Work promptly or coordinate activities properly;
 6. The specified product or method of construction cannot receive necessary approval by a governing authority, and the requested substitution can be approved; and
 7. A substantial advantage is offered Thornton, in terms of cost, time, energy conservation or other considerations of merit, after deducting offsetting responsibilities Thornton may be required to bear. Additional responsibilities for Thornton may include additional compensation to the Architect or Engineer for redesign and evaluation services, increased cost of other construction by Thornton or separate contractors, and similar considerations.
- D. The Contractor's submittal and Thornton's acceptance of Shop Drawings, product data, or Samples that relate to construction activities not complying with the Contract Documents does not constitute an acceptable or valid request for substitution, nor does it constitute approval. Any deviations from the Drawings and Specifications shall clearly reference the approved substitution request and shall comply with all submittal requirements in the Contract Documents.

22. PROJECT MEETINGS

- A. Meetings shall be held between Thornton, Contractor, and other applicable entities at a standard time and place, established during the Preconstruction Meeting. Meetings are to be held as necessary at Thornton's sole discretion. Thornton shall require the attendance of Contractor's Superintendent and any other person(s) deemed necessary, including Subcontractors and or suppliers, at these meetings. The meetings shall be conducted by the Contractor for the following purposes:
1. Review the overall progress of the Work and the current status of the Schedule of Work;
 2. Identification and resolution of problems which are or may be impeding the planned progress of the Work;
 3. Coordination of the efforts of concerned Parties so that the Work progresses per the Schedule of Work; and
 4. Maintenance of lines of communication, including sound working relationships between Thornton and Contractor, and a mutual understanding of requirements of the Contract Documents.

- B. Contractor shall be responsible for the preparation and distribution of written minutes of these meetings to all attendees and other concerned or impacted parties, as designated by Thornton. Contractor shall distribute meeting minutes within two (2) Business Days of the meeting. Within five (5) Calendar Days of receipt of the meeting minutes, Thornton shall review the content for completeness and accuracy, and note modifications and/or corrections. Contractor shall incorporate modifications and/or corrections into the meeting minutes as deemed appropriate by Thornton, and the revised meeting minutes will be re-distributed to all attendees by Contractor. If Thornton does not note any revisions to the meeting minutes during the five (5) Calendar Day period, then Thornton accepts the meeting minutes as an accurate and complete record of the meeting.

23. PROTECTION OF PUBLIC AND PRIVATE PROPERTY

- A. The Contractor shall make every effort to avoid damage to all public and private property, including, but not limited to, dikes, ditches, roadways, sidewalks, fences, trees, landscaping, structures, and utilities. Thornton assumes no responsibility whatsoever for any damage resulting from the Contractor's operations, whether such damage occurs on public or private property. The Contractor shall defend, indemnify, and hold harmless Thornton from all claims for damage resulting from its operations. Any and all damages due to a disruption of utility service attributed to the Contractor's operations shall be the sole responsibility of the Contractor.
- B. The Contractor shall contact any property owners verbally and in writing where additional access is needed to the Project site. Any damage to such property by the Contractor will be the responsibility of the Contractor. All claims must be settled before issuance of Final Payment.

24. QUALITY ASSURANCE INSPECTION AND TESTING

- A. Quality Assurance inspections and tests such as, but not limited to, fill control (compaction), asphalt density, rebar inspection, and concrete testing, shall be performed by a commercial testing laboratory of Thornton's choosing and at Thornton's expense. The Contractor may observe all such Quality Assurance inspections and tests.
- B. Thornton's Quality Assurance inspections and tests are for Thornton's benefit. Thornton's Quality Assurance inspections and tests are not a substitute for the Contractor's Quality Control responsibilities or its testing and inspection program. The Contractor is solely responsible for performing and paying for all necessary Quality Control Tests.
- C. In the event a Quality Assurance inspection or test fails to meet the criteria established by the Specifications, another inspection or test will be performed after the necessary corrective Work has been completed by the Contractor. The

Contractor shall bear the expense of all the re-inspections and/or re-tests required. Thornton shall have the right to back charge the Contractor for re-inspections and re-tests and to deduct the cost of re-inspections and re-tests from payments due or that become due to the Contractor.

- D. Contractor shall perform excavation Work necessary for compaction testing, as requested by Thornton, at no additional cost to Thornton.

25. RECORDKEEPING AND AUDITS

- A. Contractor shall keep full and detailed records and accounts relating to its performance of the Contract as may be necessary for proper management of the Work. All financial information shall be maintained in accordance with generally accepted accounting principles. Contractor's records and accounts shall include, but not be limited to, all estimating and bid preparation documents (EPD); correspondence; internal office correspondence; internal memos; conversation memorandums; policies and procedures; subcontract files; Change Order files; backcharge logs and supporting documentation; scheduling files; job cost and man-hour records; invoices; delivery tickets; bills of sale; all documentation relating to disputes or claims; safety reports; accident reports; photographs; videos; accounting records; daily reports; and any other supporting evidence deemed necessary by Thornton to substantiate charges, expenses, or costs related to the Contract.
- B. Contractor's records and accounts shall be open to inspection and subject to audit and/or reproduction in any tangible form, including computer readable data by Thornton, to permit full and complete evaluation and verification of any:
 - 1. Requests or claims by Contractor, its Subcontractors, or its suppliers for any additional compensation related to the Contract;
 - 2. Contractor representations, warranties and/or guarantees under the Contract; or
 - 3. Legal action by Contractor, its Subcontractors, or its suppliers involving Thornton and related to the Contract.
- C. Such inspections and audits may require copying from time to time at reasonable times and places of any and all information, materials and data of every kind and character, including without limitation: records; books; papers; documents; subscriptions; recordings; agreements; Purchase Orders; leases; contracts; subcontracts; commitments; arrangements; notes; daily diaries; supervisory reports; drawings; sketches; receipts, vouchers; memoranda; and any and all other agreements, sources of information and matters that may in Thornton's judgment have any bearing on or pertain to any matters, rights, duties, or obligations under or covered by the Contract Documents. Such records subject to inspection and audit shall also include, but not be limited to,

those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with the Contract or to a Claim for additional compensation or time.

- D. Thornton shall be afforded access to all of the Contractor's records and shall be allowed to interview any of the Contractor's employees (including contract labor), pursuant to the provisions of this section throughout the term of the Contract and for a period of three (3) years after Initial Acceptance of the Work, or longer if required by law.
- E. Contractor shall require all Subcontractors, sub-subcontractors and suppliers to comply with the provisions of this section by insertion of the requirements in its written agreements with those parties. Contractor shall cooperate fully and shall cause all related parties, including Contractor's Subcontractors entering into subcontracts, to cooperate fully in furnishing or in making available to Thornton from time to time whenever requested in an expeditious manner any and all such information, materials and data.
- F. Thornton shall have access to the Contractor's facilities, shall have access to all necessary records, and shall be provided adequate and appropriate work space in order to conduct inspections and audits in compliance with this section.

26. SALVAGEABLE MATERIALS

- A. Salvageable Material designated on the Drawings or in the Specifications to be salvaged or turned over to Thornton shall be removed from the Project site and delivered to a storage location as directed by Thornton, where it shall be unloaded by the Contractor.
- B. All non-designated Salvageable Material shall become the property of the Contractor. All such material shall be removed from the Project site in a reasonable time following salvage at the Contractor's cost. Its disposition shall be in accordance with all applicable federal, state, and local laws.

27. SOILS TESTS

Soils tests and analysis for planting suitability and compliance with the specifications shall be performed by a commercial testing laboratory. Contractor shall coordinate all testing with Thornton prior to incorporation of the Materials into the Project. All soils shall meet planting specifications stated in the Contract Documents prior to installation of plant Material. Failure of a soil test may require, at Thornton's sole discretion, soil amendment and retesting or excavation to a depth of 12" and replacement with acceptable Material. If not included as a Bid Proposal Pay Item, testing shall be at Thornton's cost, but re-testing required due to any failed tests shall be at the Contractor's expense.

28. STAGING AREA

The Contractor is solely responsible for acquisition and payment of any staging area to be used during construction over and above any staging area(s) which may be shown on the Drawings. This area shall be secure to prevent loss of Materials and Equipment. Any replacement of lost or damaged Materials and/or Equipment shall be the responsibility of the Contractor at no cost to Thornton.

29. STOCKPILING MATERIAL OR EQUIPMENT

The Contractor shall not stockpile Materials or Equipment in the public streets or ROW, except for that which is expected to be used that day unless permanent traffic control is allowed and the stockpile is approved in advance by Thornton. If Material is stockpiled for use that day, the Contractor shall utilize proper traffic control and necessary barricades. At all times, the Contractor shall provide access to the individual residents/users adjacent to the Work, as well as necessary services they may require (e.g. mail service, trash collection, etc.).

30. SUBMITTALS, SHOP DRAWINGS, AND SAMPLES

Thornton's representatives shall have fourteen (14) Calendar Days to review and approve or reject Shop Drawings and Samples, unless otherwise stated in the Specifications. Rejected items shall be resubmitted to Thornton and subsequent review by Thornton will be within seven (7) Calendar Days. See also General Conditions - Submittals, Shop Drawings, Samples, Service Parts Manuals, and Operator's Instructions.

31. TEMPORARY ACCESS AND SAFE TRAVEL MAINTENANCE

Once Work has commenced in a roadway or other area subject to vehicular traffic, including bicycles, the Contractor shall provide and maintain access and safe travel conditions by ramping or surfacing with suitable materials to insure safe travel at all times. If, in the opinion of Thornton, the products used and/or the maintenance methods provided are not capable of safely supporting the anticipated vehicular traffic, the Contractor shall either immediately remove the existing products and provide higher quality products, up to and including placement of temporary hot mix asphalt, increase the frequency of maintenance, or both, as may be directed by Thornton. The provision of products and their maintenance to assure access and safe travel at all times shall be considered incidental to the Work, with all costs to be borne by the Contractor. Failure to comply with this requirement may, at Thornton's sole discretion, result in the Work or a portion of the Work being suspended until the situation is corrected. Contractor shall not be entitled to additional compensation or Time. Should the Contractor not perform any necessary patching and maintenance in a timely manner, Thornton may, at its option, have the Work performed by others and may deduct the cost from amounts due, or that become due, to the Contractor.

32. TRAFFIC CONTROL

- A. Adequate traffic flow shall be maintained at all times, and all barricading and temporary signage for detours and traffic control must meet the standards as set forth in the most current edition of the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by the Colorado Department of Transportation and as adopted by the United States Department of Transportation Federal Highway Administration and requirements of Thornton's Traffic Engineer. Traffic control may be paid as a separate Bid item. If traffic control is not a separate Bid item, then it is considered incidental to the Work and shall be included in the Contract Price. Public safety is the Contractor's sole responsibility.
- B. For all ROW requiring closure for any Work therein, appropriate permits shall be obtained. Prior to the start of construction, the Contractor shall provide Thornton's Traffic Engineering Division with planned traffic control methods and procedures for the Work for review and acceptance by Thornton's Traffic Engineer. In general, except for alleyways, one (1) lane of the roadway for each direction must be kept open at all times or, if this cannot be achieved, sufficient flagpersons must be provided to properly channel traffic at all times when there is only one (1) lane open.

33. WATER USE

All water used by the Contractor for testing, compaction, dust control or other uses related to construction of the Work shall be recorded by a meter furnished by Thornton, and the water shall be obtained from a location specified by Thornton which will be no more than five (5) miles from the Project site. A one thousand four hundred dollar (\$1,400) refundable deposit for meter use shall be paid by the Contractor. Water use shall be metered, but will be furnished by Thornton at no charge to the Contractor. The Contractor shall be responsible for paying a monthly water meter rental charge of forty dollars (\$40) per month. The meter is required to be returned to the City of Thornton every six (6) months for maintenance and calibration. If there are any damages to the meter and or any missing parts, the cost of repair and or replacement of parts will be deducted from the Contractor's deposit.

GENERAL CONDITIONS

Table of Contents

1. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE OF CLAIMS BY CONTRACTOR
2. ACCESS AND DRAINAGE/FIRE HYDRANTS
3. ACCIDENT PREVENTION/EMERGENCY/AUTHORITY TO ACT
4. ASSIGNMENTS
5. AUTHORITY AND DUTIES OF THORNTON'S REPRESENTATIVE
6. AUTHORITY OF THORNTON
7. CERTIFICATES AND MANUFACTURER'S GUARANTEES/ WARRANTIES
8. CHANGED OR EXTRA WORK
9. CLAIMS FOR EXTRA COST
10. CLEANUP PRACTICES
11. CONCEALED OR UNKNOWN CONDITIONS
12. CONSTRUCTION REVIEW/QUALITY ASSURANCE/QUALITY CONTROL TESTING
13. CONTRACT IN DEFAULT – GROUNDS FOR DEFAULT
14. CONTRACT IN DEFAULT – PROCEDURE FOR DECLARING IN DEFAULT
15. CONTRACTOR'S EMPLOYEES AND SUBCONTRACTORS

16. CONTRACTOR'S RESPONSIBILITIES
17. CONTRACTOR'S UNDERSTANDING
18. CORRELATION OF DOCUMENTS
19. DECISIONS OF THORNTON
20. DEFINITIONS AND TERMS
21. DISPUTE VENUE/APPLICABLE LAW/STATUTE OF LIMITATIONS
22. DRAWINGS AND SPECIFICATIONS
23. DRAWINGS SHOWING CHANGES DURING CONSTRUCTION (Record Drawings or As-Builts)
24. EXTENSION OF CONTRACT TIME
25. INDEMNIFICATION
26. LAWS, PERMITS, LICENSES, REGULATIONS, ETC.
27. LIQUIDATED DAMAGES - TIME AN ESSENTIAL ELEMENT
28. MATERIALS, EQUIPMENT, SUPPLIES, SERVICES, FACILITIES
29. NON-DISCRIMINATION
30. NOTICE AND SERVICE
31. OPERATIONS AND STORAGE AREAS
32. OR EQUAL CLAUSE

- 33. ORDER OF CONSTRUCTION
- 34. OVERTIME
- 35. PATENTS, COPYRIGHTS, AND ROYALTIES
- 36. PAYMENT FOR USE, OR OCCUPANCY OF WORK, SUBSTANTIAL COMPLETION, PUNCH LIST, FINAL PAYMENT, WARRANTY PERIOD
- 37. PAYMENT WITHHELD
- 38. PERSONAL LIABILITY OF THORNTON
- 39. POTENTIALLY DANGEROUS WORK
- 40. PROGRESS PAYMENTS/APPLICATIONS FOR PAYMENT
- 41. PROTECTION OF PERSONS
- 42. PROTECTION OF PROPERTY
- 43. QUALITY OF MATERIALS
- 44. REFERENCE TO STANDARD SPECIFICATIONS
- 45. REMEDY OF DEFECTS, THORNTON'S RIGHT TO CORRECT
- 46. RIGHT-OF-ENTRY
- 47. RIGHT OF THORNTON TO TERMINATE THE CONTRACT
- 48. RIGHT-OF-WAY
- 49. SANITARY CONVENIENCES

- 50. SECURITY - CONTRACT
- 51. SEPARATE CONTRACTS
- 52. SEVERABILITY CLAUSE
- 53. SUBCONTRACTING
- 54. SUBMITTALS, SHOP DRAWINGS, SAMPLES, SERVICE PARTS
MANUALS, AND OPERATOR'S INSTRUCTIONS
- 55. SUSPENSION OF WORK BY THORNTON
- 56. TAXES
- 57. TERMINATION FOR CONVENIENCE
- 58. THORNTON'S REMEDIES CUMULATIVE; NONWAIVER
- 59. USE OR OCCUPANCY OF COMPLETED PORTIONS
- 60. VARIATION FROM ESTIMATED PAY ITEM QUANTITIES
- 61. WARRANTY AS TO WORKMANSHIP, MATERIALS AND EQUIPMENT
- 62. WARRANTY PERIOD
- 63. WEATHER

1. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE OF CLAIMS BY CONTRACTOR

- A. The acceptance of Final Payment by the Contractor shall operate as a release of all claims by the Contractor for all things done or furnished in connection with the Contract and for every act or omission or neglect of Thornton or others relating to, or arising out of the Contract, except for claims previously made in writing by the Contractor and rejected and/or remaining unsettled by Thornton at the time of Final Payment.
- B. No payment, final or otherwise, shall operate to release the Contractor, its Surety or its insurers from any obligations under the Contract or under the Performance Bond or Labor and Materials Payment Bond including, but not necessarily limited to, any one (1) or more of the following:
 - 1. Obligations arising from or relating to latent defects;
 - 2. Faulty Work or Material appearing after any payment;
 - 3. Failure of the Work to perform in accordance with the requirements of the Contract Documents;
 - 4. Unsettled claims of Thornton;
 - 5. Claims for non-payment of laborers, mechanics, materialmen or suppliers, or for Construction Equipment used or rented; and/or
 - 6. Claims under any maintenance requirements of the Contract Documents or any special guarantees or warranties provided for under the Contract Documents.

2. ACCESS AND DRAINAGE/FIRE HYDRANTS

The Contractor shall keep a sufficient clear area around all fire hydrants to permit their full and effective use in case of fire. The Contractor shall keep natural drainage and water courses unobstructed or provide other equal courses effectively placed.

3. ACCIDENT PREVENTION/EMERGENCY/AUTHORITY TO ACT

Precaution shall be exercised by the Contractor at all times for the protection of all persons, Work and property, and hazardous conditions shall be guarded against or eliminated. In an emergency affecting the safety of life or property, the Contractor shall be allowed to act in a diligent manner at its discretion, without special instruction or authorization from Thornton, to prevent such threatened loss or injury, and Contractor shall so act, without appeal, if so instructed or authorized. Contractor shall notify Thornton immediately thereafter. Any compensation claimed by the Contractor on

account of emergency Work affecting the safety of life or property, other than the Contractor's Work or property, shall be determined as provided under General Conditions - Claims for Extra Cost, subject to the approval of Thornton.

4. ASSIGNMENTS

The Contractor shall not assign the whole or any part of the Contract or any monies due or to become due thereunder without the written consent of Thornton and of the Surety on the Contractor's Bonds. A copy of the consent of the Surety, together with a copy of the assignment, shall be filed with Thornton. If the Contractor assigns all or any part of any monies due or to become due under the Contract, the instrument of assignment shall contain a clause to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor under the Contract shall be subject to prior claims and liens of all persons, firms, and corporations for services rendered; for the payment of all Materials and Equipment furnished; for payment of all Construction Equipment used or rented in the performance of the Work; and for the payment of any liens, claims, or amounts due federal, state, or local governments or any of their special enterprises.

5. AUTHORITY AND DUTIES OF THORNTON'S REPRESENTATIVE

- A. Thornton's Representative is placed on the Project site to observe the Work and to keep Thornton informed as to the progress of the Work and the manner in which the Work is being done; to keep records; act as liaison between the Contractor and Thornton; to call to the attention of the Contractor any Defective Work or deviations from the Contract Documents; and to reject work. Failure of Thornton's Representative to call to the attention of the Contractor any Defective Work or deviations from the Contract Documents shall not constitute acceptance of such Work by Thornton or relieve the Contractor of performing the Work in strict accordance with the Contract Documents.
- B. Work that has not been given Initial Acceptance by Thornton remains in the control of the Contractor until the entirety of the Work is complete. Because Thornton's Representative cannot control how the Contractor performs the Work, the responsibility for safety and proper use shall be solely the Contractor's. Until the entirety of the Work is completed, the Contractor may do Work that changes or modifies Work previously done, and even though at any given time, a portion of Work might be well done and acceptable in quality, the responsibility for keeping it in that condition until all of the Work is complete, is the sole responsibility of the Contractor. For this reason, Thornton will not accept any portion of the Work until the entirety of the Work is complete and control of the Work is withdrawn from the Contractor by Initial Acceptance by Thornton.
- C. Because one of Thornton's Representative's primary interest is to see that the Work progresses expediently and in a Good and Workmanlike Manner, he or she may offer suggestions to the Contractor, which the Contractor may or may

not accept, at its discretion. Such suggestions are never to be considered as anything but suggestions and involve no assumption of responsibility, financial or otherwise, by either Thornton's Representative or Thornton.

- D. Any assistance which Thornton's Representative may give the Contractor will not be construed as the basis of any assumption of responsibility or liability in any manner, financial or otherwise, by Thornton's Representative or Thornton.
- E. Thornton's Representative is not and does not purport to be a safety engineer and is not engaged in that capacity by Thornton and shall have neither authority nor the responsibility to enforce safety laws, rules, regulations or procedures, nor shall he or she be responsible for the safety of persons on and about the Project site.
- F. The presence or absence of Thornton's Representative's on any project will be at the sole discretion of Thornton, and such presence or absence of Thornton's Representative will not relieve the Contractor of its sole responsibility to obtain the construction results required by the Contract Documents.
- G. Thornton's Representative shall not be authorized to approve or accept any portion of the Work or to issue instructions contrary to the Contract Documents. Such approvals, acceptance, or instructions, when given, must be in writing and signed by Thornton. Thornton's Representative shall have authority to reject Defective Work; however, the failure of Thornton's Representative to reject Defective Work or Work that deviates from the Contract Documents shall not constitute acceptance of such Work by Thornton.
- H. Nothing in this section shall in any way be construed so as to require or to place responsibility for the method, manner, scheduling, coordination, or supervision of the Work upon Thornton's Representative or Thornton. Such responsibility rests solely with the Contractor.

6. AUTHORITY OF THORNTON

- A. Thornton, or its consulting Engineer, shall furnish engineering services during construction of the Work to the extent provided in the Contract Documents. Thornton or its consulting Engineer shall observe and review the Work during construction. Compliance with the Contract Documents shall be solely the Contractor's responsibility, notwithstanding such observation, or review. Thornton may suspend the Work when it appears such suspension may be necessary to accomplish the proper implementation of the intent of the Contract Documents.

- B. The authority to observe, review, or suspend the Work, or exercise such other authority as may be granted to Thornton by the Contract Documents, shall not be construed or interpreted to mean supervision of construction, which is the Contractor's sole responsibility, nor make Thornton responsible for providing a safe place for the performance of work by the Contractor, its employees, Subcontractors or suppliers, or for access, visits, use, work, travel or occupancy by any other person.
- C. Thornton shall have the authority to reject any, or all Work, Materials, and Equipment which does not conform to the Contract Documents and to decide technical questions which arise in the execution of the Work.
- D. Thornton shall make the final determination of the amount, quality, acceptability, and fitness of the several kinds of Work, including Materials and Equipment, which are to be paid for under the Contract and shall decide all questions which may arise in relation to such Work.
- E. Thornton's decisions shall be final and conclusive, except as otherwise expressly provided. In case any question shall arise relative to the Contract Documents, the determination of Thornton shall be a Condition Precedent to Contractor's right to receive payment for work affected by such determination.
- F. Thornton shall decide the meaning and intent of any portion of the Contract Documents where it may be found obscure or to be in disagreement.

7. CERTIFICATES AND MANUFACTURER'S GUARANTEES/WARRANTIES

Four (4) copies of any manufacturer's guaranty/warranty or certificate for any type of Material or Equipment provided shall be submitted to Thornton as a condition precedent to granting Initial Acceptance of the Work.

8. CHANGED OR EXTRA WORK

- A. Thornton reserves the right, at any time during the progress of the Work, to make necessary alterations to, deviations from, additions to, or deletions from the Work, or to require the performance of Changed or Extra Work neither covered by the Drawings and Specifications nor included in the Contractor's Bid Proposal, but forming a part of the contracted Work.
- B. Minor changes in the Work are changes that do not involve an adjustment in the Contract Price and/or the Contract Time and do not materially and adversely affect the Work, including the design, quality, performance, and workmanship required by the Contract Documents. Thornton shall have the authority to order minor changes that do not involve extra cost or Contract Time and are not inconsistent with the design concept and purposes of the Work.

In the event the Contractor determines a minor change in the Work is desired, the Contractor shall promptly inform Thornton, in writing, of any such minor changes proposed to be made by the Contractor. Provided Thornton agrees in writing that such changes are minor, the Contractor may make minor changes in the Work consistent with the intent of the Contract Documents. The Contractor shall record all such changes on the Record Drawings maintained by the Contractor.

- C. The Contractor shall not proceed with any Changed or Extra Work without a written Change Order approved in writing by Thornton. Any Changed or Extra Work performed by Contractor without written approval from Thornton shall be done solely at the Contractor's risk, and the Contractor waives any claim for additional compensation and/or extension of Contract Time therefor.

- D. Changed or Extra Work shall in no way invalidate the Contract or the Contractor's Bonds, but any difference in cost shall be added to or deducted from the Contract Price, as the case may be. No anticipated profits shall be allowed on Work that is deleted. Adjustments, if any, in the Contract Price by reason of any such Changed or Extra Work shall be determined by one (1) of the following methods in the order as listed or, if appropriate as solely determined by Thornton, by a combination of the methods listed below. Adjustments, if any, in the Contract Time by reason of any such Changed or Extra Work shall be determined in accordance with General Conditions - Extension of Contract Time.
 - 1. Method A By applicable Unit Prices contained in the Contractor's Bid Proposal for the same or similar type or class of Work as determined by Thornton.

 - 2. Method B If applicable, Unit Prices were not included in the Contractor's Bid Proposal, then by a Unit Price proposal for the Changed or Extra Work from the Contractor that is accepted by Thornton.

 - 3. Method C If applicable, Unit Prices were not included in the Contractor's Bid Proposal and a Unit Price proposal is not practical or cannot be mutually agreed upon, then by a lump sum price proposal for the Changed or Extra Work from the Contractor that is accepted by Thornton.

 - 4. Method D If applicable, Unit Prices were not included in the Contractor's Bid Proposal, and if Thornton and the Contractor cannot mutually agree on pricing per Method B or C before Thornton requests the Contractor to begin Work on the Changed or Extra Work, then the Contractor shall be paid the "actual field cost", as defined in paragraph H below. Each Party must notify the other

Party in advance of utilizing Method D to allow each Party the opportunity to perform its due diligence during the performance of the Changed or Extra Work. Failure of the Contractor to notify Thornton in advance that it disagrees with the application of Methods A, B, or C shall bar the Contractor from unilaterally using Method D.

E. Method A – Method A is applicable to price Changed or Extra Work when the following conditions are met:

1. When the same or similar type or class of work, as determined by Thornton, is contained in the Contractor's Bid Proposal as a Pay Item;
2. When Unit Prices are provided in the Bid Proposal for the Pay Item; and
3. When the actual final quantity, after adding in the Changed or Extra Work, is not less than seventy-five percent (75%) nor greater than one hundred twenty-five percent (125%) of the total estimated quantity for the applicable Pay Item.

If condition 1. and 2. are met, but the actual final quantity is less than seventy-five percent (75%) or greater than one hundred twenty-five percent (125%) of the total estimated quantity for the applicable Pay Item, and if a larger quantity variation was expected as expressly noted on the Bid Proposal Form by an asterisk (*), then Method A shall be used to price the Changed or Extra Work regardless of the final actual quantity installed.

If condition 1. and 2. are met, but the actual final quantity is less than seventy five percent (75%) or greater than one hundred twenty-five percent (125%) of the total estimated quantity for the applicable Pay Item, and if a larger quantity variation was not expected as expressly noted on the Bid Proposal form by an asterisk (*), then Method B or C shall be used to price the Changed or Extra Work; provided however, that the original estimated quantity shall be paid at the original Unit Price proposed for the particular Pay Item.

F. Methods B and C – Under Methods B and C, the Contractor shall provide backup documentation showing an estimated itemized cost breakdown for labor (including labor man-hours), Materials and Equipment installed in the Work, Construction Equipment (including rental equipment) utilized in the performance of the Work, Subcontractor costs, incidental expenses, and overhead and profit not to exceed fifteen percent (15%) of the total Change Order price. Documentation shall be sufficient to enable Thornton to evaluate the Contractor's Unit Price or lump sum proposal.

G. Method D - When any Changed or Extra Work is performed under Method D, the term "actual field cost" is hereby defined to be and shall include:

1. The actual payroll cost, including payroll taxes, of all workmen such as foremen, equipment operators, carpenters, electricians, mechanics, and laborers for the time actually engaged in performing the Changed or Extra Work. No other labor related costs will be allowed including, but not limited to, Contractor's management or supervisory personnel, home office personnel, employee benefits, employee bonuses, insurance, and any other incidental costs. An allowance for these indirect costs is covered in the Contractor's allowable markup on the actual field cost, as described below;
2. The actual cost of all Materials and Equipment incorporated into the Changed or Extra Work;
3. The cost of all Construction Equipment for the time actually employed or used in the performance of the Changed or Extra Work based on the Colorado State Department of Transportation's Equipment Schedule in force on the date of the Change Order Request;
4. Transportation charges at cost necessarily incurred in connection with any Construction Equipment authorized by Thornton for use on such Changed or Extra Work, but which is not already on the Project site;
5. The actual cost of all power, fuel, lubricants, water, and similar operating expenses as well as other expendable materials such as small tools;
6. All incidental expenses incurred as a direct result of such Changed or Extra Work, including a prorata portion of premiums related to the Contractor's Bonds, and where the premiums therefore are based on payroll costs, on insurance required by the Contract;
7. The actual cost of any subcontracted Work. In determining the amount payable to the Contractor for a Subcontractor's Work, the Contractor must either obtain a minimum of three (3) competitive firm fixed quotes for the subcontracted Work, or if using an existing Subcontractor, shall require the Subcontractor to submit documentation as required herein to determine the Subcontractor's actual field cost. If the Subcontractor's actual field cost is used to determine the Contractor's overall reimbursement for the Changed or Extra Work, the Subcontractor's markup on its cost of Work to cover its general management and supervisory personnel, home office personnel, employee benefits, employee bonuses, insurance, taxes other than payroll taxes, any other incidental costs, overhead and profit, and all other elements of cost not embraced within the actual field cost as

defined herein, shall not exceed fifteen percent (15%) of its actual field cost; and

8. The Contractor's markup on the actual field cost for self-performed work and the Contractor's markup on subcontracted work. The Contractor's markup on self-performed work may not exceed fifteen percent (15%) of the actual field cost for such work. This markup shall cover and be full compensation for the Contractor's general management and supervisory personnel, home office personnel, employee benefits, employee bonuses, insurance, taxes other than payroll taxes, any other incidental costs, overhead and profit, and all other elements of cost not embraced within the actual field cost as defined herein. The Contractor's markup on subcontracted Work shall not exceed five percent (5%) of the Subcontractor's cost whether determined by a competitive quote or by the Subcontractor's actual field cost plus its markup as defined herein, whichever is applicable. No "pyramiding" or additional percentage shall be authorized for the Contractor for any Changed or Extra Work performed by Subcontractors.

When any Changed or Extra Work is performed under Method D, Thornton shall direct the form in which the accounts of the actual field costs shall be kept by the Contractor. The Contractor must specify in writing the proposed method of doing the Work and the type and kind of Construction Equipment, if required, which shall be used in the performance of the Changed or Extra Work, and Thornton must agree in writing to the methodology before the Contractor may commence the Changed or Extra Work. The Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost when requested by Thornton and shall give Thornton access to accounts relating thereto.

- H. Should Thornton and the Contractor be unable to agree on the method for pricing Changed or Extra Work or on the total value of the Changed or Extra Work, Thornton may utilize any combination of Methods A, B, C, and D to develop a Change Order to facilitate the continuation of the Work and payment therefor without delay.
- I. Any Changed or Extra Work shall be considered a part of the Contract, subject to all of its terms, conditions, stipulations, review, warranties, and tests and may be performed without notice to the Surety. The Contractor and its Surety hereby agree to these provisions.
- J. It is the Contractor's and the Surety's joint responsibility to be aware of all Contract Change Orders and to ensure that the Contract value under the Labor and Material Payment Bond and the Performance Bond are modified as appropriate with each Change Order. In addition, the Surety shall ensure that the Contractor's bonding limit has not been exceeded by any Contract Change Order.

9. CLAIMS FOR EXTRA COST

- A. If it appears to the Contractor that Changed or Extra Work is required for which, in its opinion, it should receive additional compensation for extra costs, within ten (10) Calendar Days of when the Contractor knew or should have known of the condition giving rise to the Changed or Extra Work, the Contractor shall give written notice to Thornton's Contract Administration Division making a Claim for Extra Cost and requesting a Change Order be authorized by Thornton for Changed or Extra Work. Contractor shall simultaneously provide a copy of said claim to Thornton's Field Representative. Should a difference of opinion arise as to what does or does not constitute Changed or Extra Work, or concerning the extra cost incurred and the payment thereof, and if Thornton insists on immediate conformance, the Contractor shall proceed with the Work after presenting its written notice to Thornton. Performance by Contractor of the Work in question shall not in any way prejudice the Contractor's ability to receive compensation on a Claim for Extra Cost. Failure to submit timely notice to Thornton as provided for herein shall constitute a complete waiver by the Contractor of its claim for extra cost for Changed or Extra Work.
- B. Provided timely notice has been filed with Thornton, and provided Method A for pricing Changed or Extra Work does not apply and provided that Thornton and the Contractor have not agreed upon pricing per Methods B and C, the Contractor shall keep an accurate account of the "actual field cost", as provided for in Method D under the General Conditions - Changed or Extra Work. The Contractor shall thereby not waive any right it might have to compensation for a Claim for Extra Cost in connection with the Changed or Extra Work. Upon receipt of the Contractor's Claim for Extra Cost, Thornton will make a final determination as to whether or not Changed or Extra Work was involved and, if so, the amount due to the Contractor.
- C. Contractor shall provide to Thornton all supporting documents and receipts in support of its Claim for Extra Cost within thirty (30) Calendar Days after performing the Work for which extra cost is claimed. Thornton shall have the right to reject any Claim for Extra Cost if the foregoing procedure is not followed. Failure to submit accurate and complete supporting documentation within thirty (30) Calendar Days after performing the Work shall constitute a complete waiver of the claim by the Contractor.
- D. In giving verbal instructions, Thornton shall have the authority to make minor changes that do not involve extra cost or Contract Time and are not inconsistent with the design concept and purposes of the Work; but otherwise, except in an emergency endangering life or property, no Changed or Extra Work shall be performed unless pursuant to a Change Order approved by Thornton, and no Claim for Extra Cost shall be valid unless so approved, except as otherwise provided herein.

10. CLEANUP PRACTICES

- A. The Contractor shall maintain general cleanup practices to keep all ROW, streets, alleys, sidewalks, and other premises as free from material and debris as the character of the Work will permit, and upon completion of any part of the Work, shall as required and or as directed by Thornton, remove all surplus material, mud, rubbish, debris, or other objectionable items and leave ROW, streets, alleys, sidewalks and other premises in a safe, acceptable condition. Under no circumstances shall the Contractor allow any condition to exist which creates a nuisance, fire hazard or an environment injurious to health or safety, or an attraction for children, animals, etc., during or after construction.
- B. In the event the Contractor fails to comply with this section, after notice has been given by Thornton, Thornton shall have the right to proceed to clean up such material and debris, make repairs, and charge the cost of the cleanup to the Contractor and to deduct the cost from any monies due or that become due to the Contractor.

11. CONCEALED OR UNKNOWN CONDITIONS

- A. If conditions are encountered at the Project site which are (1) sub-surface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, Contractor shall give written notice to Thornton promptly before such conditions are disturbed and in no event later than two (2) Business Days after its first observance of the conditions.
- B. Thornton shall promptly investigate such conditions, and if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, shall provide an adjustment in the Contract Price, Contract Time, or both. If Thornton determines that the conditions at the Project site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, Thornton shall notify the Contractor in writing, stating the reasons. Any objection to Thornton's determination must be made in writing by the Contractor, stating its reasons therefore, within ten (10) Calendar Days after Thornton has given notice of its decision.

12. CONSTRUCTION REVIEW/QUALITY ASSURANCE/QUALITY CONTROL TESTING

- A. During construction, the Work shall be subject to the review and observation of Thornton. The Contractor shall afford every reasonable facility and assistance to Thornton to make such review. If any Work is covered up without

approval or consent of Thornton, it will be uncovered for examination by Thornton at the Contractor's expense.

- B. The fact that Thornton has a representative on the Project site shall not be taken as acceptance of the Work or any part of it. The Contractor shall notify Thornton upon completion of the entirety of the Work, and the Work shall be given final construction review by Thornton. Any Quality Control tests and Quality Control re-tests may be witnessed by Thornton or Thornton's Representative. If all parts of the Work are acceptable and comply with the Contract Documents, Initial Acceptance shall be granted by Thornton. If parts of the Work are not acceptable and require additional work by the Contractor necessitating additional cost, such costs shall be paid for by the Contractor.
- C. Contractor shall furnish Quality Control tests and reports on Quality Control tests of all Materials and Equipment called for in the Contract Documents. The Quality Control testing laboratory must be approved by Thornton, and the Contractor shall pay the cost of the Quality Control tests and any Quality Control re-tests that may be required, including all transportation charges.
- D. Thornton shall arrange for and conduct Quality Assurance testing at its own cost.
- E. All Quality Control and Quality Assurance tests and re-tests, unless otherwise provided in the Specifications, shall be in accordance with the pertinent sections of the latest edition of the standards applicable to the material or devices to be tested. A partial list of the principal societies referred to and their abbreviations follows:

A.A.S.H.T.O.	American Association of State Highway and Transportation Officials
A.C.I.	American Concrete Institute
A.I.S.C.	American Institute of Steel Construction
A.N.S.I.	American National Standards Institute
A.S.T.M.	American Society of Testing Materials
A.W.W.A.	American Water Work Association
C.P.I.	Clay Pipe Institute
C.S.	Commercial Standards
F.S.	Federal Specifications
N.E.C.	National Electric Code
T.M.C.A.	Tile and Marble Contractors of America

- F. All parts of the Work shall conform to the standards of construction in the Contract Documents and to the intent thereof, and if they do not conform, shall be made to do so by rebuilding or replacing or otherwise as instructed by Thornton at Contractor's expense.

- G. If after commencement of the Work Thornton determines that any Work requires special inspection, testing or approval not otherwise provided for in the Contract Documents, Thornton shall issue written authorization instructing the Contractor to order such special inspection, testing, or approval, and the Contractor shall give timely notice of its readiness and of the date arranged so Thornton may observe such inspecting, testing, or approval. If such special inspection or testing reveals a failure of the Work to comply with the Contract Documents, or with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction over the Work, the Contractor shall bear all costs of such inspection and/or testing.
- H. Required certificates of inspection, Quality Control testing results, or approval shall be secured by the Contractor and promptly delivered to Thornton.

13. CONTRACT IN DEFAULT – GROUNDS FOR DEFAULT

Thornton may declare the Contract in default for any one (1) or more of the following reasons as determined by Thornton in its sole discretion:

- A. Failure to complete the Work within a Milestone Date or the Contract Time;
- B. Failure or refusal to comply with an instruction of Thornton within a reasonable time;
- C. Failure or refusal to remove rejected Materials or Equipment;
- D. Failure or refusal to perform any Work or to repair any Defective Work that deviates from the Contract Document requirements;
- E. Bankruptcy, insolvency, or the making of an assignment for the benefit of creditors;
- F. Failure to provide a qualified Superintendent or sufficient and competent workmen or Subcontractors to carry on the Work in a satisfactory and Good and Workmanlike Manner;
- G. Failure to prosecute the Work in accordance with the Schedule of Work;
- H. Failure to provide proper Materials and Equipment;
- I. Failure to comply with provisions of the Contract Documents as determined by Thornton;
- J. Disregard of laws, ordinances, rules or regulations, or any order of any public body having jurisdiction over the Work, or the violation of any construction or safety codes; and/or

K. Multiple claims, frivolous claims, and or inflated claims.

14. CONTRACT IN DEFAULT – PROCEDURE FOR DECLARING IN DEFAULT

Thornton may declare the Contract in default by giving written notice to the Contractor and its Surety. The notice shall contain the reason or reasons for declaring the Contract in default and shall fix a day certain, not less than seven (7) Calendar Days after the date of the notice, when the Contract shall be declared in default, unless the Contractor or its Surety remedies the default to Thornton's satisfaction or makes satisfactory arrangements with Thornton for its remedy prior to the day certain fixed in the notice. Thornton may, at its sole option, extend the day certain for declaring the Contract in default without prejudice to Thornton's right to thereafter declare the Contract in default. If the Contractor or its Surety fails to remedy the default or make arrangements for its remedy prior to the date set for declaring the Contract in default, or any extension thereof, the Contract shall be declared in default.

15. CONTRACTOR'S EMPLOYEES AND SUBCONTRACTORS

- A. The Contractor shall provide and maintain, continually on the Project site during the performance of the Work, adequate and competent superintendence of all operations for and in connection with the Work. The Contractor shall either personally superintend its Work or shall cause it to be done by a capable Superintendent acceptable to Thornton. The Superintendent shall have the authority to see that the Work is carried out in accordance with the Contract Documents and in a first class, thorough and Good and Workmanlike Manner in every respect.
- B. Incompetent, disorderly, intemperate, or incorrigible employees and or Subcontractors shall be removed from the Project by the Contractor when notified by Thornton, and such person shall not again be permitted to return to the Project site without the written consent of Thornton.
- C. The Contractor agrees to defend, indemnify, and hold Thornton harmless from any and all loss or damages arising out of labor disputes within the Contractor's control that occur during the performance of the Contract.

16. CONTRACTOR'S RESPONSIBILITIES

The Contractor agrees that the following are Contractor's responsibility under the Contract Documents:

- A. Contractor shall supervise, inspect and direct the Work completely and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall promptly, as directed by Thornton, either correct all Defective Work, whether or not fabricated, installed or completed, or if the Work has been

rejected by Thornton, remove it from the Project site and replace it with Work that is not Defective. Contractor shall pay all claims, costs, losses and damages caused by or resulting from such correction or removal (including, but not limited to, all costs of repair or replacement of the work of others).

- B. The Contractor shall comply with all federal, state, county, district, and municipal laws, ordinances, rules, regulations, building codes, and safety codes relating to or applicable to the Work and shall furnish certification of compliance at completion of the Work upon request of Thornton.
- C. The Contractor shall perform all Work and furnish all Materials, Equipment, Construction Equipment, labor, transportation, superintendence, Quality Control testing, facilities, services, means, methods, techniques, insurance, bonding, and utilities, except as otherwise specified in the Contract Documents, necessary or proper to perform and complete all Work required by and in accordance with the Contract Documents and pay for all applicable taxes, licenses, and permits incidental to performing the Work.
- D. The Contractor alone shall be solely responsible for:
 - 1. All construction means, methods, techniques, sequences, and coordination of all Work under the Contract Documents;
 - 2. All conditions at the Project site, including the safety of all persons and property;
 - 3. The supervision, direction, and control of all Work under the Contract; and
 - 4. All safety procedures and precautions necessary in connection with the Work.
- E. These responsibilities of the Contractor shall apply continuously and shall not be limited to normal working hours. Review of construction by Thornton or Thornton's Representative shall not relieve the Contractor of such responsibilities.
- F. The Contractor shall furnish, erect, maintain, and remove all construction plant and all temporary works and facilities as may be required to perform the Work.
- G. The Contractor alone shall be fully responsible for the safety, efficiency, and adequacy of its Construction Equipment, Material and Equipment, facilities, and appliances, and for any damage which may result from their failure or their improper construction, maintenance, or operation.

- H. Thornton will provide Contractor with reports, Drawings, Specifications, and such other data as may be available to Thornton and reasonably required by Contractor to perform the Work. No Project information shall be disclosed by Contractor to third parties without prior written consent of Thornton or pursuant to a lawful Court Order directing such disclosure. All documents provided by Thornton to Contractor shall be returned to Thornton at the end of the Project or upon Thornton's request. Contractor is authorized by Thornton to retain copies of such documents at Contractor's expense.
- I. Regarding any electronic devices with data storage capability, including but not limited to computers and copiers, used by the Contractor in connection with the performance of Work, Contractor represents the following:
 - 1. Devices, such as copiers or fax machines, which are not intended to be a data storage device for purposes of performing the Work hereunder, shall have their data storage devices scrubbed each day, either manually or automatically, to delete any data related to Thornton's Project.
 - 2. At the time an electronic device with data storage capacity is taken out of service, all such devices will be securely scrubbed of all data related to Thornton's Project and all data storage drives will be physically destroyed prior to disposition of the device to insure no Thornton data could ever be retrieved from such device.

All data, drawings, designs, plans, reports, studies, schedules, computer programs (nonproprietary), computer input and output, analyses, tests, maps, surveys, or any other materials developed for this Project by Contractor are and shall be the sole and exclusive property of Thornton. Contractor hereby transfers any copyright, trademark, or other intellectual property rights to Thornton. However, any reuse of any documents by Thornton without prior written authorization by Contractor other than for the specific intended purpose of this Contract will be at Thornton's risk. Prior to disposal of any Project documents, the Contractor shall provide Thornton with a ten (10) Calendar Day written notice that it has documents it intends to dispose of, during which time Thornton may take physical possession of such documents.

17. CONTRACTOR'S UNDERSTANDING

No verbal agreement or conversation with any officer, agent or employee of Thornton, either before or after the execution of the Contract, shall affect or modify any of the terms, conditions, or other obligations set forth in any of the Contract Documents. All Contract modifications must be in writing and be in the form of a Change Order.

18. CORRELATION OF DOCUMENTS

- A. The Drawings and Specifications are complementary and supplementary. Portions of the Work which can best be illustrated by the Drawings may not be

included in the Specifications, and portions best described by the Specifications may not be depicted on the Drawings. All items necessary or incidental to completely construct or erect the Work specified shall be furnished, whether called for in the Specifications or shown on the Drawings.

- B. The order of precedence of the Contract Documents shall be as established in the Contract. Any discrepancies between the Contract Documents shall promptly be brought to Thornton's attention for resolution.

19. DECISIONS OF THORNTON

Thornton, through its duly authorized representatives, shall within a reasonable time after appropriate notice, make decisions in writing on requests, disagreements, and claims between the Contractor and Thornton.

20. DEFINITIONS AND TERMS

When the Contract indicates that Work shall be "accepted, acceptable, approved, authorized, condemned, considered necessary, contemplated, deemed necessary, designated, determined, directed, disapproved, established, given, indicated, insufficient, interpreted, ordered, permitted, rejected, required, reserved, satisfactory, specified, sufficient, suitable, suspended, unacceptable or unsatisfactory", it shall be understood that these expressions are followed by the words "by Thornton".

Wherever the following abbreviations, terms, or pronouns are used in any of the Contract Documents, the intent and meaning shall be interpreted as follows:

ABBREVIATIONS -

AAN	American Association of Nurserymen
AAR	Association of American Railroads
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
ADA	Americans with Disabilities Act
AGC	Associated General Contractors of America
AI	Asphalt Institute
AIA	American Institute of Architects
AISC	American Institute of Steel Construction

AISI	American Iron and Steel Institute
AITC	American Institute of Timber Construction
ANSI	American National Standards Institute, Inc.
ARA	American Railway Association
AREA	American Railway Engineering Association
ARTBA	American Road and Transportation Builders Association
ASCE	American Society of Civil Engineers
ASLA	American Society of Landscape Architects
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
ATSSA	American Traffic Safety Services Association
AWG	American Wire Gauge
AWPA	American Wood Preservers' Association
AWS	American Welding Society
AWWA	American Water Works Association
CCA	Colorado Contractors Association
CDOT	Colorado Department of Transportation
CP	Colorado Procedure
CPSC	Consumer Products Safety Commission
CRS	Colorado Revised Statutes, 1973, as amended
CRSI	Concrete Reinforcing Steel Institute
DBIA	Design Build Institute of America
EIA	Electric Industries Association
FHWA	Federal Highway Administration Department of Transportation.

FSS	Federal Specifications and Standards
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society
IMSA	International Municipal Signal Association
IPCEA	Insulated Power Cable Engineers Association
ITE	Institute of Transportation Engineers
MIL	Military Specifications
MUTCD	Manual on Uniform Traffic Control Devices
NEC	National Electrical Code
NEMA	National Electrical Manufacturers' Association
NIST	National Institute of Standards and Technology
NSF	National Sanitation Foundation
OSHA	Occupational Safety and Health Act
SAE	Society of Automotive Engineers
UL	Underwriters Laboratories, Inc.

ADVERTISEMENT - A public announcement inviting Bid Proposals for work to be performed and/or Materials and Equipment to be furnished.

APPLICATION FOR PAYMENT - The application submitted by Contractor for payment for Work performed during the prior pay period. May also be called Pay Request.

BASIS OF PAYMENT - The terms under which Work is paid for, as designated in the Contract Documents.

BID - The offer of a Bidder, on the prescribed form(s), to perform the Work at the prices quoted. May also be referred to as a Bid Proposal or Proposal.

BIDDER - An individual, firm or corporation submitting a Bid Proposal for the Work.

BID PROPOSAL - The offer of a Bidder, on the prescribed form(s), to perform the Work at the prices quoted. May also be referred to as Bid or Proposal.

BID PROPOSAL FORM - The documents furnished by Thornton on which the offer of a Bidder is submitted.

BID PROPOSAL GUARANTY - The security furnished with a Bid Proposal to guaranty that the Bidder will enter into the Contract if the Bid Proposal is accepted and a Contract is awarded.

BUSINESS DAY - Monday through Friday, except for holidays observed by Thornton.

CALENDAR DAY - Each and every day shown on the calendar, beginning and ending at midnight.

CERTIFIED INVOICE - An invoice from a supplier which has been endorsed by the Contractor guaranteeing that the Material was purchased and received and establishing the value of the Material.

CHANGE ORDER - A written order issued to the Contractor by Thornton which covers additions, deletions, or revisions to the Work, Extra Work, and/or any adjustment to the Contract Time and/or Contract Price. The Change Order is the only method authorized for modifying the Contract.

CHANGED OR EXTRA WORK - Work not provided for in the Contract as awarded, but determined by Thornton to be essential to the satisfactory completion of the Contract within its intended scope.

CONDITION PRECEDENT - An act or event that shall occur prior to the start of a subsequent act or event as defined by the Contract Documents.

CONSTRUCTION EQUIPMENT - All plant, machinery, tools and apparatus, including parts and supplies for operation and maintenance, which are necessary for the proper construction and acceptable completion of the Work.

CONTRACT DOCUMENTS - The Contract Documents are comprised of the items listed in the Contract.

CONTRACT PRICE - The monies payable by Thornton to Contractor for completion of the Work in accordance with the Contract Documents.

CONTRACT TIME - The number of Calendar Days, including authorized time extensions, allowed for Substantial Completion of the Work. Where a calendar date of completion is specified, the Work shall be substantially completed on or before that date, including authorized time extensions.

CONTRACTOR - The Party contracting directly with Thornton to furnish and perform all Work in accordance with the Contract Documents.

DEFECTIVE - An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to Initial Acceptance (unless responsibility for the protection thereof has been assumed by Thornton in writing at Substantial Completion).

DRAWINGS - The Drawings or reproductions provided by Thornton which show the location, character, dimensions and details of the Work. May also be called Plans.

ENGINEER - Depending on the context, Engineer may mean the person or designated representative assigned by Thornton within the Infrastructure Department to fulfill the responsibility, duty, and authority associated with the position of City Engineer or Traffic Engineer, or Engineer may mean the consulting engineer engaged by Thornton to produce designs, drawings, and specifications for the construction of the Project.

FINAL ACCEPTANCE - The acknowledgment by Thornton that the Warranty Period has expired and outstanding items have been repaired to the satisfaction of Thornton and there appears to be no further outstanding items to be corrected under the Warranty.

FINAL PAYMENT - The final amount due to the Contractor, as may be adjusted for any verified statements of claim properly filed with Thornton, upon achieving Initial Acceptance of the Work and payable at 5:00 p.m. on the Final Settlement Date.

FINAL SETTLEMENT DATE - The date designated by Thornton in accordance with CRS 38-26-107, as may be amended from time to time.

GENDER AND NUMBER - References are made as if masculine in gender and singular in number unless neuter gender is appropriate in the context; however, the use of any gender shall be applicable to all genders and the use of singular number shall include the plural and conversely.

GOOD AND WORKMANLIKE MANNER - In a manner generally considered skillful by those capable of judging such Work and as compared to industry standard practices in the Denver Metropolitan Area.

GOOD REPAIR - A condition free from any defect, functional problems, or structural deterioration (except that from ordinary and reasonable use) which appreciably reduces the effectiveness or efficiency of the Work for the purpose intended, or any departure from the standards of original construction described in the Contract Documents. The Contractor warrants that the Work shall be in Good Repair during the Warranty Period.

INITIAL ACCEPTANCE - An acknowledgment by Thornton that, to the best of Thornton's knowledge, all Work, including Punch List items, has been completed in accordance with the Contract Documents. Initial Acceptance shall not release the Contractor of any Warranty obligations.

LUMP SUM PRICE - Prices as established by the Bid Proposal, Schedule of Contract Items and Prices, for elements of Work which are to be installed complete in place and paid as a stipulated sum for the entire element of Work.

MATERIALS AND/OR EQUIPMENT - All components, articles, appliances, devices, substances, supplies, and miscellaneous items specified or required for the construction of the Work.

MAY - Permissive.

METHOD OF MEASUREMENT - The manner in which a Pay Item is measured.

MILESTONE DATE - A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of the entirety of the Work.

NON-CONFORMANCE - Not in accordance with the terms and conditions set forth in the Contract Documents.

NOTICE OF AWARD - The written notice provided by Thornton to the successful Bidder awarding a Contract for the Work.

NOTICE TO PROCEED - Written notice to the Contractor to proceed with the Work, including, when applicable, the date of the beginning and the end of the Contract Time.

OWNER - The City of Thornton or its designated representative. May also be referred to as Thornton or the City.

PAY ITEM - A specifically described element of Work for which a price is agreed to in the Contract Documents.

PLANS - The Drawings, or reproductions, provided by Thornton, which show the location, character, dimensions, and details of the Work. May also be called Drawings.

PROJECT - The overall project of which the Work may be all or only a part.

PUNCH LIST - The list of Work items contained in the Certificate of Substantial Completion that the Contractor is required to complete or correct prior to Thornton granting Initial Acceptance.

QUALITY ASSURANCE TESTING - The testing performed and paid for by Thornton to assist in evaluating whether Materials or workmanship complies with the quality requirements.

QUALITY CONTROL TESTING - The testing that the Contractor performs at its cost to assure that all Materials and workmanship have met the minimum standards for quality.

RECORD DRAWINGS - Drawings or other construction documents continuously maintained by the Contractor during the course of construction to show changes made to the original Drawings and/or Specifications. May also referred to as As-Built Drawings.

RIGHT-OF-WAY - A general term denoting land, property, or interest therein, acquired for or devoted to the construction of an improvement; may also be referred to as ROW.

SALVAGEABLE MATERIAL - Material that can be saved or salvaged.

SAMPLES - Physical examples furnished or constructed by the Contractor to illustrate Materials, and Equipment, workmanship or finishes, and to establish standards by which the Work will be judged.

SCHEDULE OF WORK - A bar chart schedule or a critical path method (CPM) schedule, as the Contract Documents require, which graphically depicts the Contractor's plan for the performance of the Work from Notice to Proceed to Substantial Completion.

SHALL - Mandatory.

SHOP DRAWINGS - Drawings, diagrams, schedules and other data specifically prepared for the Work by the Contractor or Subcontractor or sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

SPECIFICATIONS - Those portions of the Contract Documents, which may also be known as the Technical Specifications, consisting of the written technical descriptions of Materials and Equipment, construction systems, standards, and workmanship applicable to the Work.

STOP WORK ORDER - An order issued by Thornton to the Contractor to suspend Work under the Contract; except Work necessary to assure the safety and protection of persons and property shall continue to be the responsibility of the Contractor unless otherwise directed by Thornton.

SUBCONTRACTOR - A party supplying labor and material, or only labor, for Work under a separate contract or agreement with the Contractor. Nothing contained in the Contract Documents shall create any contractual relationship between Thornton and any Subcontractor.

SUBMITTALS - Shop Drawings, Samples, diagrams, illustrations, certificates, test reports, schedules, performance charts, brochures, shop layouts, fabrication layouts, assembly layouts, foundation layouts, wiring and piping layouts, Specifications and descriptive literature, and any other submittals required by the Contract Documents, which are prepared by the Contractor or a Subcontractor, manufacturer, supplier or distributor, and which illustrate some portion of the Work.

SUBSTANTIAL COMPLETION - When the Work is sufficiently completed so it may be utilized by Thornton for the purposes for which it was intended, in accordance with applicable life, health, and safety codes, but excluding minor Work to be completed or corrected as Punch List Work.

SUBSTANTIAL COMPLETION DATE - The date on which all the Work is required to be substantially completed. May also be called Date of Substantial Completion.

SUPERINTENDENT - The Contractor's authorized on-site representative in charge of directing the Work.

THORNTON'S REPRESENTATIVE - Thornton's authorized on-site representative assigned to observe the Work.

UNIT PRICE - Prices as established by the Bid Proposal, Schedule of Contract Items and Prices and/or by Change Orders for discrete elements of Work intended to be paid by multiplying the actual quantity of Work performed by the Unit Price bid or subsequently agreed upon by Change Order.

WARRANTY PERIOD - The period from Initial Acceptance to Final Acceptance during which the Contractor is responsible for corrections to keep the Work in Good Repair.

WORK - All Materials and Equipment incorporated or to be incorporated into the Work, and all labor, expendable equipment, utilities, transportation, operations and services necessary to produce the construction, including all obligations, duties, and responsibilities necessary to the successful completion of the construction of the Work in Good and Workmanlike Manner.

21. DISPUTE VENUE/APPLICABLE LAW/STATUTE OF LIMITATIONS

- A. In the event of any dispute arising under the Contract, venue shall lie in the DISPUTE District Court in and for the County of Adams, State of Colorado.
- B. The laws of the State of Colorado shall apply to any dispute, notwithstanding its choice of law principles.
- C. Any action arising out of or relating to the Contract or the Work asserted by the Contractor against Thornton shall be brought within two (2) years from when the action accrued, pursuant to C.R.S. § 13-80-102(h).

22. DRAWINGS AND SPECIFICATIONS

- A. After execution of the Contract, Thornton will provide the Contractor with four (4) sets of Drawings and Specifications. If additional Drawings and Specifications are required, the Contractor can download and print the required number of documents at its expense from Thornton's on-line document posting service provider.
- B. When, in the opinion of Thornton, revised partial Plans, Drawings and/or Specifications are required to clarify or reflect Changed or Extra Work, Thornton shall provide four (4) copies of such revisions to Contractor. Additional copies shall be paid for by the Contractor. Contractor shall immediately post such revisions to the Record Drawings to be maintained by the Contractor.
- C. The Drawings and Specifications are the property of Thornton and are furnished to the Contractor solely for the construction of the Work.
- D. Data and Measurements. The data given in the Specifications and shown on the Drawings are believed to be accurate, but Thornton does not guarantee the accuracy of such data. It is the Contractor's responsibility to confirm all levels, locations and measurements, and verify all dimensions prior to construction and adapt the Work to the exact limits of construction. Scale measurements taken from Drawings are solely for reference and must be verified by the Contractor.

23. DRAWINGS SHOWING CHANGES DURING CONSTRUCTION (Record Drawings or As-Builts)

Throughout construction, the Contractor shall maintain a thorough up-to-date record of all changes on the Drawings made during construction. As a condition precedent prior to granting Initial Acceptance, the Contractor shall file with Thornton one (1) set of complete reproducible red lined Record Drawings showing all changes and including Contractor's field construction notes neatly and legibly recorded thereon. Such drawings shall include, but not be limited to, the exact routing if changed from drawing location of sewer, water, gas, oxygen supply, condenser water lines, fuel oil tanks and lines, fire protection lines, and any other buried utility lines, and routing of buried electrical feeder lines and changes to routing of conduit runs which are buried or concealed in concrete slabs.

24. EXTENSION OF CONTRACT TIME

- A. The Contractor expressly agrees that in undertaking to complete the Work within the Contract Time, it has taken into consideration and made allowances in the Schedule of Work for all delays and hindrances incidental to such Work, whether growing out of delays in securing Materials and Equipment, labor, normal inclement weather, or otherwise.

- B. If the Contractor is delayed at any time in the progress of the Work by an act or omission of Thornton, any separate contractor employed by Thornton, Changed or Extra Work, industry-wide labor strikes, fire, epidemics, quarantine restrictions, freight embargoes, unavoidable casualties, abnormal weather conditions, causes beyond the Contractor's control, or by any other cause which Thornton determines may justify the delay, the Contract Time shall be extended for such reasonable time as Thornton may determine based on the timing and submittal requirements set forth below; provided, however, that such delay could not have been avoided by the exercise of due diligence by the Contractor.
- C. No extension of the Contract Time will be granted for:
1. Variations between an original Contract Pay Item quantity estimate and the actual Pay Item quantity placed unless such variance exceeds one hundred twenty-five percent (125%) of the original Contract Pay Item quantity estimate;
 2. Rain, snow, wind, flood, or natural phenomena of normal intensity for the locality where the Work is to be performed;
 3. Acts or omissions of the Contractor or its Subcontractors;
 4. Delays occurring concurrently (either at the same time, on the same critical path, or on a concurrent critical path) with delays attributable to acts or omissions of the Contractor or its Subcontractors; and/or
 5. A delay occurring to an activity which is not on the then-current critical path.
- D. A request for an extension of the Contract Time shall be submitted in writing to Thornton no later than ten (10) Calendar Days after the commencement of the delay. In the case of a continuing delay for the same cause, only one request is necessary.

The Contractor shall support its request for an extension of the Contract Time with a supplemental submittal, which shall be submitted to Thornton within fourteen (14) Calendar Days of submitting the initial request. The Contractor's supplemental submittal shall include:

1. A description of the activities that were delayed, the reasons for the delay, an explanation of how they were delayed, and a detailed factual statement relative to all relevant dates, locations, etc.;
2. A schedule analysis (based on the critical path method) which shows in graphic form how and where a delay on the then-current critical path occurred and its effect on any Milestone Date or the Substantial Completion Date; and

3. An explanation of the Contractor's efforts to reschedule the Work in order to mitigate the effect of the delay and/or prevent further delays.

In the event the Contractor requires more than fourteen (14) Calendar Days to provide the supplemental submittal, the Contractor shall request in writing an extension of time from Thornton within the fourteen (14) Calendar Day period. If the supplemental submittal or a request for an extension of time to submit the supplemental submittal is not received by Thornton within the fourteen (14) Calendar Day period, the Contractor waives any claim for an extension of Contract Time therefor.

- E. If abnormal weather conditions are the basis for a request for an extension of the Contract Time, such request shall be supported by data substantiating that weather conditions during the period of time impacted were unusually severe and could not have been reasonably anticipated. To establish the existence of abnormal weather, the Contractor must submit documentation which shows that the weather conditions experienced in a given calendar month fall outside of the extreme ranges of weather data for the Denver area published by the National Climatic Data Center during the same calendar month over the prior ten (10) year period. The existence of abnormal weather is not sufficient in itself to justify an extension of Contract Time; the Contractor must still demonstrate that the abnormal weather delayed specific activities that were on the then-current critical path that controlled the overall completion of the Work.
- F. Failure to strictly comply with the timing and submittal requirements of this section shall constitute a waiver by Contractor of any request for an extension of the Contract Time. All extensions to the Contract Time shall be by Change Order. No oral extensions of Contract time shall be granted by Thornton or may be relied upon by the Contractor.
- G. Notwithstanding anything to the contrary in the Contract Documents, an extension to the Contract Time, to the extent permitted under this section, shall be the sole and exclusive remedy of the Contractor for any delay in the commencement, prosecution, or completion of the Work; hindrance, interference, or obstruction in the Contractor's performance of the Work; loss of productivity; or other similar claims, whether or not such delays are foreseeable. In no event shall the Contractor or its Subcontractors be entitled to any compensation or recovery of any damages in connection with any delay to the Work. The Contractor hereby waives any and all claims past, present, or future for monetary damages arising out of or related to any delay or interference including, without limitation, consequential damages, lost opportunity costs, lost profits, impact damages, acceleration damages, loss of labor productivity damages, all other time related damages, or other similar remuneration against Thornton. Thornton's exercise of any of its rights or remedies under the Contract Documents, regardless of the extent or frequency

of Thornton's exercise of such rights of remedies, shall not be construed as active interference with the Contractor's performance of the Work.

25. INDEMNIFICATION

To the fullest extent permitted by law, Contractor agrees to defend, indemnify and hold harmless Thornton, its officers, agents and employees, from and against all liability, judgments, damages or losses which arise out of, result from, or are in any manner connected with the Work to be performed under this Contract, to the extent it is determined such liability, judgments, damages or losses were caused by the negligent acts, errors, or omissions of Contractor, any subcontractor of Contractor, or any officer, employee or agent of Contractor, or anyone else employed directly or indirectly by any of them or anyone for whose acts any of them may be liable and will pay to Thornton any expenses incurred by reason of such liability, judgments, damages or losses, including, but not limited to, court costs and reasonable attorneys' fees incurred in defending or investigating such claims. Such payments on behalf of Thornton shall be in addition to any and all other legal remedies available to Thornton and shall not be considered Thornton's exclusive remedy.

26. LAWS, PERMITS, LICENSES, REGULATIONS, ETC.

- A. In executing the Work, the Contractor shall comply with all applicable federal and state laws, municipal ordinances, and rules and regulations of all authorities having jurisdiction over employment discrimination, wages and working conditions, and the construction of the Work including, but not limited to, all construction or building codes, OSHA requirements, and safety codes which apply to:
 - 1. Performance of the Work;
 - 2. Protection of the Project site, adjoining and/or adjacent property; and
 - 3. Maintenance of passage-ways, guard fences, or other protective facilities.
- B. The Contractor shall obtain all permits and pay for all licenses and approvals necessary for the construction of the Work and give all required notices.

27. LIQUIDATED DAMAGES - TIME AN ESSENTIAL ELEMENT

- A. It is mutually understood and agreed that time is an essential element of the Contract and that it is critical that the Work progress vigorously to completion.
- B. The Contractor agrees that the Work shall be prosecuted regularly, diligently, and uninterrupted at such rate of progress as will insure Milestone Dates are met and Substantial Completion is achieved within the Contract Time. Contractor understands that the Substantial Completion Date set forth in the

Contract Documents is a reasonable time for completion of the Work, taking into consideration the average of the preceding ten (10) years' climatic range during the specified Contract Time based on U.S. Weather Bureau statistics for the locality where the Work is to be performed and the usual industrial conditions prevailing in that locality.

- C. If the Contractor neglects, fails or refuses to complete the Work within the Contract Time, then for each Calendar Day after the end of the Contract Time Substantial Completion of the Work is not achieved, the amount per Calendar Day specified in the Contract shall be assessed by Thornton, not as a penalty, but as predetermined and agreed upon Liquidated Damages.
- D. The amount is fixed and agreed upon by and between the Contractor and Thornton because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages Thornton would sustain in the event the Work is not completed by a Milestone Date or the Date of Substantial Completion.
- E. Thornton shall have the right to deduct Liquidated Damages from any money due, or to become due the Contractor, and to sue for and recover any additional compensation for damages for non-performance of the Contract.
- F. The assessment of Liquidated Damages for failure to complete the Work within the Contract Time shall not constitute a waiver of Thornton's right to collect any additional damages which Thornton may sustain by failure of the Contractor to carry out the terms of this Contract.
- G. If Liquidated Damages for Milestone Dates are specified in the Contract, all conditions for Liquidated Damages shall apply to each and every Milestone specified. All Milestones represent independent damages Thornton will suffer and therefore shall be viewed independently. All Milestones shall be cumulative, increasing by the amount specified for each date the Contractor does not achieve substantial completion for each specific Milestone. If the Contractor fails to obtain Substantial Completion of the Work within the Contract Time, the Liquidated Damages for Milestone Dates shall cease to accrue and Liquidated Damages for failure to complete the Work will commence.

28. MATERIALS, EQUIPMENT, SUPPLIES, SERVICES, FACILITIES

- A. It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all Materials and Equipment, Construction Equipment, including rental equipment, water, heat, light, fuel, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the Work in a Good and Workmanlike Manner within the Contract Time.

- B. No Materials or Equipment shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

29. NON-DISCRIMINATION

Contractor, its agents, employees, and Subcontractors shall not discriminate on the basis of race, color, creed, national origin, ancestry, age, gender, religion, or physical or mental disability in any policy or practice.

30. NOTICE AND SERVICE

Where the manner of giving notice is not otherwise provided, notice to the Contractor from Thornton shall be in writing and considered delivered and service completed, when the notice is posted, by mail via the United States Postal Service, to the Contractor at the address given in the Contractor's Bid Proposal, or delivered in person to the Contractor or its authorized representative on the Project site.

31. OPERATIONS AND STORAGE AREAS

- A. All operations of the Contractor (including storage of Materials and Equipment) shall be confined to areas authorized by Thornton. The Contractor shall be liable for any and all damages to such premises.
- B. The Contractor shall defend, indemnify, and hold harmless Thornton from liability of any nature or kind arising from any use, trespass, or damage occasioned by its operations on the premises of third persons.
- C. The Contractor shall be responsible for the care, compliance with law, and storage of Materials or Equipment delivered to the Project site or purchased for use thereon. Stored Materials or Equipment shall be carefully and continuously protected from damage or deterioration and located so as to facilitate inspection by Thornton. The responsibility for the care and storage of Materials or Equipment shall be the Contractor's whether such Materials or Equipment are furnished by the Contractor or by Thornton. Storage of Materials or Equipment shall not unduly interfere with the progress of the Contractor's Work or the work of any other contractor.

32. OR EQUAL CLAUSE

- A. The inclusion of a manufacturer's name, trademark, or other proprietary identification of a product shall not limit competition, but shall establish a standard of quality, implying an "or equal" clause, unless expressly specified otherwise (see Special Conditions). However, the substitution of a product in place of that specified shall be permitted only upon Thornton's issuance of written approval in the form of an addendum or Change Order in response to a formal request submitted by the Contractor sufficiently in advance to allow adequate time for evaluation by Thornton. If Thornton, in its sole discretion,

determines that tests are necessary for a proper evaluation, such testing shall be performed as specified by Thornton and at the Contractor's expense.

- B. The substitution of a product shall be subject, without limitation, to any requirements listed in the Special Conditions or other parts of the Contract Documents and the following conditions:
1. It is determined by Thornton that the proposed substitute product is equal or superior in properties, quality, character, and appearance to that specified;
 2. Such changes as may be required in the Work to install the substitute product and to properly integrate it into the Work are approved by Thornton;
 3. All costs for changes due to substitutions are the responsibility of the Contractor;
 4. The Contractor will provide at least the same warranty for the substitution that the Contractor would have provided for the product specified; and
 5. The effect of the substitution on the total cost of the Work is approved by Thornton.

33. ORDER OF CONSTRUCTION

Where Thornton's operations require specific sequencing of the Work, such sequencing requirements as provided for in the Contract Documents shall be followed.

34. OVERTIME

Any Work necessary to maintain the Schedule of Work that is considered shall be performed without additional expense to Thornton. The Contractor shall notify Thornton in writing a minimum of two (2) Business Days in advance of any overtime Work being performed.

35. PATENTS, COPYRIGHTS, AND ROYALTIES

- A. The Contractor shall protect, defend, indemnify, and hold harmless Thornton and its officers, agents, servants, and employees from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Work, including its use by Thornton or Thornton's officers, agents, servants, or employees, unless otherwise specified in the Contract Documents.

If the Contractor uses any design, device, or Materials and Equipment covered by letters, patent or copyright, it shall provide for such use by suitable agreement with the owner of such patented or copyrighted design, device or material. It is mutually agreed and understood that without exception, the Contractor shall pay all royalty and license fees and the Contract Price shall include all royalties or costs arising from the use of such design, device, or Materials and Equipment in any way involved in the Work. The Contractor and/or its Surety shall defend, indemnify and hold harmless Thornton from any and all claims for design, device, or Materials and Equipment, or any trademark or copyright in connection with the Work, and shall indemnify Thornton for the cost, expense, or damage which it may be obligated to pay by reason of such infringement during the prosecution of the Work or after completion of the Work.

36. PAYMENT FOR USE, OR OCCUPANCY OF WORK, SUBSTANTIAL COMPLETION, PUNCH LIST, FINAL PAYMENT, WARRANTY PERIOD

No progress or Final Payment, nor any partial or entire use or occupancy of the Work, nor acceptance thereof, by Thornton shall be construed to be acceptance of Defective Work or improper Materials or Equipment, either wholly or in part. The Contractor's obligation to perform and complete the Work in strict accordance with the Contract Documents shall be absolute.

- A. When the Contractor considers the Work to be substantially complete, the Contractor shall make a written request to Thornton for the issuance of a Certificate of Substantial Completion. Thornton, upon receipt of the request, shall make an inspection of the Work and either issue a written Certificate of Substantial Completion, or deny the Contractor's request in writing and provide the reasons for such denial.
- B. In the case of a denial of the issuance of a Certificate of Substantial Completion, the Contractor shall complete the Work so as to address Thornton's concerns and comply with the Contract Documents and shall again request in writing that Thornton issue a written Certificate of Substantial Completion. Thornton will handle any subsequent requests as outlined herein.
- C. If Thornton issues a Certificate of Substantial Completion, the Certificate shall list any items remaining to be completed as Punch List items and shall set a date certain by which the Contractor shall complete or correct the Punch List items. The date certain shall not be longer than thirty (30) Calendar Days beyond the date of the Certificate of Substantial Completion. If the Contractor does not provide in writing within four (4) Calendar Days of the issuance of the Certificate of Substantial Completion good and sufficient reasons why the Punch List Work cannot be completed by the date established in the Certificate of Substantial Completion, the date shall be as established in the Certificate and the Punch List Work shall be completed by that date. If the Contractor

does provide good and sufficient reason why the Punch List Work cannot be completed by the date certain, Thornton will revoke the Certificate of Substantial Completion until such time as the Work is sufficiently complete to allow the Punch List work to be completed within thirty (30) Calendar Days from the date of Substantial Completion. If the Contractor does not complete the items on the Punch List by the date certain, Thornton, upon seven (7) Calendar Days notice shall have the option to withhold from the Final Payment up to two (2) times the value of the uncompleted Work, to complete any uncompleted Work or repair deficient Work, and to deduct the actual cost from any amounts due or that become due to the Contractor and or to seek compensation from the Surety.

- D. Upon completion of the Punch List Work, the Contractor shall make written application to Thornton for an inspection of the Work, and Thornton will make such inspection. When Thornton finds the Work acceptable and complete under the Contract Documents, Thornton will grant Initial Acceptance. Initial Acceptance shall not release Contractor from any Warranty obligations. The Warranty Correction Period shall begin on the Date of Initial Acceptance. Thornton will issue Initial Acceptance in writing that shall set out the beginning and end dates for the Warranty Correction Period.

Upon issuance of Initial Acceptance, Thornton will, as required by CRS 38-26-107 as may be amended, establish the Date of Final Settlement and post or advertise the Notice of Contractor's Final Settlement. The Work shall be deemed completed satisfactorily and finally accepted by Thornton as those terms are used in C.R.S. § 24-91-103(1)(a) upon Initial Acceptance.

- E. The Contractor shall submit a final Application for Payment upon completion of the Punch List Work. Prior to receiving Final Payment, the Contractor, if requested by Thornton, shall file with Thornton:
1. Receipts showing payment in full;
 2. A waiver of claims and/or liens from each Subcontractor, material men, supplier, manufacturer, and dealer for all labor, Material and Equipment used or furnished by each on the Work; and
 3. A complete release of all claims and/or liens of the Contractor which may have arisen under the Contract.

In lieu thereof, Thornton may request and the Contractor shall file statements showing the balance due on all accounts. The manner in which settlement is made by Thornton with the Contractor shall not release the Contractor or its Surety.

- F. The Warranty Period shall begin on the Date of Initial Acceptance. Thornton will issue Initial Acceptance in writing that shall set out the beginning and end dates for the Warranty Period.
- G. The Contractor shall be responsible for the maintenance, security, heat, utilities, damages to the Work, and insurance until the date of Initial Acceptance. In addition, the Contractor shall be responsible for the provision of maintenance, security, heat, utilities, damages to the Work, and insurance for the affected portion of the Work during any period in which the Contractor is called upon to perform Warranty Work.

37. PAYMENT WITHHELD

- A. Thornton may withhold payment or, on account of subsequently discovered evidence, may nullify the whole or part of any payment certificate as may be necessary to protect Thornton from loss on account of any one (1) or more of the following:
 - 1. Defective Work not remedied, Thornton may withhold up to two (2) times the value of the defective Work;
 - 2. Claims filed or notice indicating probable filing of claims of third parties against the Contractor;
 - 3. Failure of the Contractor to make payments to Subcontractors or to make payments for labor, Material, Equipment, Construction Equipment, or equipment rental;
 - 4. Reasonable doubt that the Work can be completed for the balance of the Contract Price remaining;
 - 5. Damage to a Subcontractor or another contractor;
 - 6. Failure or refusal of the Contractor to comply with an instruction of Thornton within a reasonable time;
 - 7. Unsatisfactory prosecution of the Work;
 - 8. Liquidated Damages assessed against the Contractor;
 - 9. Failure to comply with the provisions of the Contract Documents;
 - 10. Being in arrears to Thornton for any amounts owed to Thornton;
 - 11. Failure to supply or update the Schedule of Work; and/or
 - 12. Damage to Thornton's property or equipment.

- B. When the above grounds are removed, payment shall be made for amounts withheld. The right to withhold payment; however, shall not preclude Thornton from its right to declare the Contract in default for any of the reasons specified in the General Conditions – Contract in Default.

38. PERSONAL LIABILITY OF THORNTON

In carrying out any of the provisions of the Contract or in exercising any power or authority granted thereby, there shall be no liability upon Thornton's duly authorized representatives, either personally or as officials of Thornton, it being understood that in such matters, they act as agent and representatives of Thornton.

39. POTENTIALLY DANGEROUS WORK

- A. When the use of explosives, driving, or removal of piles, wrecking, excavation, or other similarly potentially dangerous activities are necessary for the prosecution of the Work, the Contractor shall exercise the utmost care so as not to endanger life or property. The Contractor shall be fully responsible for any and all damages, claims, and for the defense of any actions against Thornton resulting from such potentially damaging activity, including payment of attorneys' fees.
- B. The Contractor shall notify each public utility company or other owner of property having structures or improvements in proximity to the Project site of its intent to perform potentially dangerous activities. Such notice shall be given sufficiently in advance to enable the companies or owner's of property to take such steps as they deem necessary to relieve the Contractor of responsibility for any damages, claims, or the defense of any actions against Thornton resulting from the performance of such Work.
- C. All explosives shall be stored in a secure manner and all storage places shall be marked clearly "EXPLOSIVES - KEEP OFF", and shall be in the care of competent watchmen at all times.

40. PROGRESS PAYMENTS/APPLICATIONS FOR PAYMENT

- A. When monthly progress payments are authorized, the Contractor shall, on the date established by Thornton, submit to Thornton an itemized Application for Payment, on forms provided by Thornton and supported by such data substantiating the Contractor's right to payment as Thornton may require.
- B. If payments are to be authorized on account of Materials and Equipment not incorporated in the Work, but delivered and suitably stored at the Project site, which are necessary for the orderly prosecution of the Work, the Contractor shall furnish with its Application for Payment bills of sale, bills of lading, Certified Invoices, or such other evidence as may be appropriate and satisfactory to Thornton that establishes:

1. Actual cost, including transportation to the Project site, of such Materials and Equipment;
 2. Titles thereof in Thornton's name, upon payment; and
 3. Appropriate insurance coverage to protect Thornton's interest therein upon payment.
- C. The Contractor warrants that title to all Materials and Equipment covered by an Application for Payment, whether incorporated into the Work or not, shall pass to Thornton upon receipt of payment by the Contractor. The Contractor further warrants that upon submittal of an Application for Payment for Work for which payment has been received from Thornton, shall to the best of the Contractor's knowledge, information, and belief, be free and clear of all liens, claims, security interests, or encumbrances in favor of the Contractor, Subcontractors, suppliers, or other persons or entities making a claim by reason of having provided labor, Materials or Equipment relating to the Work; and that such Materials or Equipment furnished or installed comply with the requirements of the Contract Documents.
- D. The passing of title to Thornton shall not be construed as relieving the Contractor of the sole and complete responsibility for:
1. The care and protection of the Work, Materials and Equipment for which payment has been made; and
 2. The restoration of any damaged or destroyed Work, Materials or Equipment. Such responsibility shall continue until all Work under the Contract has been completed and accepted by Thornton.
- E. Thornton shall make progress payments on account of the Contract Price on the basis of Contractor's Application for Payment and shall make payment to Contractor within thirty (30) Calendar Days after the Application for Payment is approved by Thornton. All such payments will be measured by the schedule of values established in the Contract Documents (and in the case of Unit Price Work based on the number of units completed) or in the event there is no schedule of values, as provided in the Special Conditions.
- F. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, less the aggregate of payments previously made and less such amounts as Thornton is entitled to withhold in accordance with General Conditions - Payment Withheld:
1. Ninety-five percent (95%) of the Work completed (with the balance being retainage). Thornton may determine that as long as the character

and progress of the Work remain satisfactory to it, no additional retainage will be withheld.

2. Ninety-five percent (95%) (with the balance being retainage) of Materials and Equipment not incorporated in the Work, but delivered, suitably stored and accompanied by documentation satisfactory to Thornton as provided by the Contract Documents.

- G. Under no circumstances shall payment constitute a waiver of Thornton's right to require the Contractor to fulfill all of the requirements of the Contract Documents.

41. PROTECTION OF PERSONS

- A. The Contractor shall:

1. At all times protect the lives and health of its employees and Subcontractors;
2. Take all necessary precautions for the safety of all persons on or in the vicinity of the Project site; and
3. Comply with all applicable federal, state, county, and municipal safety laws and codes.

- B. Contractor shall comply with all provisions of the "Williams Steiger Occupational Safety and Health Act of 1970" (OSHA), including any amendments thereto and rules and regulations issued pursuant thereto, applicable to the Work and performance of the Contract. Whereas the state in which the Work is performed has passed legislation bearing on Occupational Safety and Health, such legislation and amendments thereto, together with rules and regulations issued pursuant thereto shall be complied with by the Contractor.

42. PROTECTION OF PROPERTY

- A. The Contractor, at no additional expense to Thornton, shall at all times:

1. Safely guard Thornton's property and abutting or adjacent property from injury, loss, or damage;
2. Protect by false work, braces, shoring or other effective means all buildings, foundations, walls, fences, and other property along his line of Work, or affected directly by its Work, including, but not limited to, Thornton's property, against damage;

3. Cover or otherwise protect stockpiles of Materials to avoid damage to the Materials and damage to any property from such Materials; and
 4. Repair, replace, or make good any such damage, loss or injury, unless caused directly by Thornton.
- B. The Contractor shall exercise care to protect from injury all water lines, sanitary sewer lines, gas mains, telephone cables, electric cables, services pipes, and other utilities or fixtures which may be encountered during the Work. All utilities and other service facilities or fixtures, if damaged, shall be repaired by the Contractor at its sole expense.
- C. The Contractor, at no additional expense to Thornton, shall at all times safely guard and protect the Work; provide, erect, and maintain suitable barriers around all excavations or obstructions to prevent accidents; and provide, place, and maintain during the night sufficient lights, signals, and signs for this purpose on or near the Work. The Contractor shall at all times, until Initial Acceptance, protect the Work, Equipment and Material from accidental or any other damage and repair any damage at no cost to Thornton.

43. QUALITY OF MATERIALS

In the absence of detailed Specifications, all Materials and Equipment shall conform to the latest standards of the American Society for Testing Materials (ASTM) available at the time the Invitation for Bids is issued, unless otherwise indicated.

44. REFERENCE TO STANDARD SPECIFICATIONS

Any reference to standard specifications in any of the Contract Documents shall always imply the latest edition of such standard specification or specifications available at the time the Invitation for Bids is issued, unless otherwise indicated.

45. REMEDY OF DEFECTS, THORNTON'S RIGHT TO CORRECT

If, in the opinion of Thornton, a defect exists, or functional or structural deterioration takes place, or substantial departure from the standards of original construction exists in the Work, Thornton shall notify the Contractor by letter sent via the United States Postal Service to the address given in the Contractor's Proposal. If the Contractor does not proceed within seven (7) Calendar Days of the date of the notice, to remedy such defects, deficiencies, deterioration or departures, or the Contractor's remedies are not adequate as determined by Thornton, Thornton may cause the repairs to be made as Thornton deems appropriate, and the cost shall be paid by the Contractor or its Surety or deducted from amounts due or that become due the Contractor.

46. RIGHT-OF-ENTRY

Contractor shall provide to Thornton, Thornton's Representative and representatives of federal, state, county, district and municipal governments complete and free access to the Work, whenever access is requested by Thornton.

47. RIGHT OF THORNTON TO TERMINATE THE CONTRACT

Should it appear at any time that the Work is not being prosecuted to insure completion of the Work by a Milestone Date or within the Contract Time, and if upon seven (7) Calendar Days written notice to the Contractor, the Contractor fails to increase the quality or the quantity of the Work, or both, Thornton shall have the right to terminate the Contract and complete the Work as it deems appropriate. The Contractor shall not be entitled to any damages on account of such termination, and will be held liable for all costs and expenses incurred by Thornton in completing the Work. All money due the Contractor will be retained until the Work is completed and all expenses and costs have been deducted, and any money due Thornton shall be paid by the Contractor or its Surety.

48. RIGHT-OF-WAY

Thornton will furnish land and ROW as shown in the Contract Documents for the performance of the Work. Contractor shall confine its operations to the ROW furnished.

49. SANITARY CONVENIENCES

The Contractor shall furnish the necessary sanitary conveniences, properly secluded, for the use of workers during construction, and these conveniences shall be maintained in a manner that will be inoffensive and in compliance with federal, state, and local health and sanitation requirements.

50. SECURITY - CONTRACT

- A. The Contractor shall furnish two (2) separate surety bonds (in the form attached), each in an amount at least equal to one hundred percent (100%) of the Contract Price as security for the following:
 - 1. The faithful performance of the Contract and the terms, conditions, and stipulations contained therein; and
 - 2. Payment of all laborers and mechanics for labor performed and payment for all Materials and Equipment furnished and for all Construction Equipment used or rented in the performance of the Contract.
- B. The Surety on such bonds shall be satisfactory to Thornton, shall be a duly authorized surety company licensed to do business in the State of Colorado,

shall appear in the latest Federal Register Circular 570 as published by the Department of the Treasury, unless otherwise approved by Thornton, and shall have no less than a Best's A Rating. The Surety will in no way be financially associated with the Contractor.

- C. Any and all bonds shall be written as to make the Contract Documents a part thereof, whether by reference or attachment, in order to give the Surety full notice of the conditions therein.
- D. The Contractor shall within ten (10) Calendar Days from and including the date of Notice of Award, furnish Thornton with the required "Performance Bond" and "Labor and Materials Payment Bond", each in a sum equal to one hundred percent (100%) of the Contract Price.
- E. If at any time a Surety shall become insolvent, is declared bankrupt, loses its right to do business in the state in which the Work is to be performed, or is no longer listed in Department of the Treasury Circular 570, Contractor shall within ten (10) Calendar Days after notice from Thornton, substitute acceptable bonds in such form and sum and signed by such other Sureties satisfactory to Thornton.

51. SEPARATE CONTRACTS

- A. Thornton reserves the right to let other contracts in connection with the Project. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials, machinery, equipment, supplies and the execution of their work, and shall properly connect and coordinate its Work with theirs.
- B. If any part of the Contractor's Work depends upon the work of any other contractor for proper execution or results, the Contractor shall inspect and promptly report in writing to Thornton any lack of progress or defects in the other contractor's work that render it unsuitable for proper execution or results. Failure on the part of the Contractor to inspect and report shall constitute acceptance of the other contractor's work as fit and proper for the reception of the Contractor's Work. No extensions to the Contract Time will be granted if the Contractor fails to inspect and report on unsuitable work.
- C. To insure the proper execution of subsequent Work, the Contractor shall measure existing Work and shall at once report in writing to Thornton any incompatibility between the existing Work and the subsequent Work anticipated by the Contract Documents.

52. SEVERABILITY CLAUSE

The provisions of this Contract shall be deemed to be severable, and if any term, phrase, or portion of the Contract shall be determined to be unlawful or otherwise

unenforceable, the remainder of the Contract shall remain in full force and effect, so long as the clause severed does not affect the intent of the Parties.

53. SUBCONTRACTING

- A. The Contractor may utilize where appropriate the services of Subcontractors on parts of the Work.
- B. The Contractor shall not award any Work to a Subcontractor if Thornton objects.
- C. Thornton encourages all Contractors to utilize minority, disadvantaged, and women-owned businesses whenever possible.
- D. The Contractor shall be as fully responsible to Thornton for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by them or under their control, as it is for the acts and omissions of itself and of persons directly employed by it.
- E. The Contractor shall cause appropriate provisions to be inserted in all subcontracts binding Subcontractors to the Contractor as Contractor is bound to Thornton.
- F. Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and Thornton.

54. SUBMITTALS, SHOP DRAWINGS, SAMPLES, SERVICE PARTS MANUALS, AND OPERATOR'S INSTRUCTIONS

- A. Within fourteen (14) Calendar Days from Notice of Award, the Contractor shall submit an edited Submittal Log (provided in the Technical Specifications) which for each required Submittal, indicates the Contractor's proposed submittal date and the time allotted for Thornton's or its representative's, review and approval of each Submittal if sooner than specified. This Submittal Log shall be consistent with the Contractor's Schedule of Work. The Contractor shall thoroughly review the Submittal Log to insure that all of the Project submittal requirements are listed and in the appropriate order of operations for their proposed construction schedule.
- B. The Contractor shall furnish all Shop Drawings and Samples which are specified or required by the Contract Documents for the completion of the Work. All Shop Drawing and Sample Submittals shall be submitted to Thornton in electronic format whenever possible. When electronic Submittals are not possible, a minimum of four (4) copies of the Submittal shall be provided. Shop Drawings of Material and Equipment offered by the Contractor for approval by Thornton shall be in sufficient detail to adequately show construction and operation. Shop Drawings and Samples submitted as herein provided by the Contractor and approved by Thornton for conformance with

the design concept shall be executed in conformity with the Contract Documents, unless otherwise required by Thornton.

- C. Work performed in connection with the purchase, fabrication, manufacture, shipment, installation, or erection of Material or Equipment prior to Thornton's review and approval, as specified herein, shall be at the Contractor's sole risk, responsibility, and expense.
- D. Shop Drawing and Sample Submittals shall be accompanied by a letter of transmittal which shall list Submittal numbers and dates of the Submittal and shall be in the form required by Thornton. Shop Drawings shall be complete in every respect and bound in sets. Any resubmittals shall show Submittal and resubmittal numbers as well as the dates for previous Submittals and resubmittals.
- E. The Contractor shall submit all Shop Drawings and Samples sufficiently in advance of construction to allow ample time for checking, correcting, resubmitting, rechecking, and approving to avoid any delay in the progress of the Work.
- F. Shop Drawings or Samples submitted shall be marked with the name of the Project, and Submittal number, and bear the stamp or specific written indication of approval of the Contractor as evidence that the Shop Drawings and Samples have been checked by the Contractor. Any Shop Drawings or Samples submitted without the Contractor's stamp of approval or specific written indication of approval shall not be considered by Thornton and shall be returned to the Contractor for approval and resubmission.
- G. At the time of each Submittal, the Contractor shall give Thornton notice of each variation between the Shop Drawing or Sample and the requirements of the Contract Documents. The Contractor shall place a specific notation on the Shop Drawing or Sample and call such variation to Thornton's attention in the Contractor's letter of transmittal. If the variation as submitted is acceptable, Thornton will provide written approval of the variation to the Contractor. Thornton's review and approval of Shop Drawings or Samples shall not relieve the Contractor from responsibility for strict compliance with the requirements of the Contract Documents, unless the Contractor has, in writing, called Thornton's attention to each variation at the time of submission, as required above, and Thornton has given unconditional written approval of each variation to Contractor. Thornton's review and approval of any variation shall not extend to means, methods, techniques, sequences, or procedures of the construction of the Work or to safety precautions or programs incident thereto.
- H. By approving and submitting Shop Drawings and Samples, the Contractor represents that:

1. It has determined and verified all field dimensions and measurements, quantities of Work, field construction criteria and installation requirements, Materials and Equipment, catalog numbers, and similar data;
 2. It has checked, and coordinated such submittals with the requirements of the Work and the Contract Documents; and
 3. Data shown on the Shop Drawings are complete and accurate.
- I. All items of standard equipment shall be the latest model at time of delivery.
- J. When Shop Drawings are submitted for the purpose of showing the installation in greater detail, their approval shall not excuse the Contractor from requirements shown on the Drawings and Specifications.
- K. Shop Drawing and Sample Submittals not conforming to the above requirements shall be returned to the Contractor, without action by Thornton, for resubmittal. Any resulting delay shall be the responsibility of the Contractor.
- L. Thornton's review and approval of Shop Drawings and Samples submitted by the Contractor shall be only for general conformance with the design concept, as otherwise provided, and shall not be construed as:
1. Permitting any departure from the Contract Documents;
 2. Relieving the Contractor of the responsibility for any error in details, dimensions, or otherwise that may exist in such Submittals;
 3. Constituting a blanket approval of dimensions, quantities, or details of the Material or Equipment shown; or lubrication drawings showing type and frequency of lubrication. Detailed parts drawings shall show location, name, and catalog numbers of parts;
 4. Approving departures from additional details or instructions previously furnished by Thornton. Such check or approval shall not relieve the Contractor of the full responsibility of meeting all of the requirements of the Contract Documents.
- M. Four (4) sets of bound Operator's Instructions and electric copy shall be furnished by the Contractor for Equipment furnished under the Contract that is specially listed or that is considered to be of a special or complex nature. Operator's Instructions shall include detailed manufacturer's information on all operations and maintenance recommendations.

- N. Four (4) sets each of bound Service Parts Manuals and an electric copy shall be furnished by the Contractor for all items of standard manufacture.
- O. All Operator Instructions and Service Parts Manuals shall be bound in permanent binders satisfactory to Thornton and shall be furnished to Thornton as a condition precedent to granting Initial Acceptance.

55. SUSPENSION OF WORK BY THORNTON

Thornton shall have the right to suspend and reinstate execution of the whole or any part of the Work without invalidating the provisions of the Contract for such period or periods of time as Thornton may deem necessary due to unsuitable weather or such other conditions considered unfavorable for the suitable prosecution of the Work, including failure of the Contractor to supply labor, Materials or Equipment meeting the requirements of the Contract Documents, or failure to carry out instructions or to perform such other provisions of the Contract considered unfavorable for the orderly or suitable prosecution of the Work. During periods of suspension, the Contractor shall protect the Work from damage. Stop Work Orders for suspension of the Work and orders to reinstate performance of the Work shall be issued by Thornton to the Contractor in writing. If the Stop Work Order was issued due to Contractor's, Subcontractor's, and or supplier's non-compliance with the Contract, the Contractor shall, upon approval by Thornton, perform Work necessary to bring the Work back into compliance with the Contract. During such a suspension period the Contractor shall not be entitled to any compensation as a result of the suspension, including compensation for delay. The Contract Time shall continue to run during such suspension period and the Contractor shall remain fully responsible for any liquidated damages that are assessed as a result of late performance.

56. TAXES

- A. Contractor shall pay all sales, consumer, use, or other similar taxes required to be paid in accordance with the laws and regulations applicable to the Work. Thornton is exempt from Colorado State and City of Thornton sales and use taxes on Materials and Equipment to be permanently incorporated into the Work. Said taxes shall not be included in the Contractor's Bid Proposal or the Contract Price.
- B. Contractor shall apply to the Colorado Department of Revenue for an exemption certificate and purchase the Materials and Equipment tax free (Section 39-26-104, C.R.S. as amended). Contractor shall be liable for exempt taxes paid due to the failure to apply for exemption certificates or failure to use them.

57. TERMINATION FOR CONVENIENCE

- A. Termination Notice - Thornton may terminate the Contract, in whole or in part, for convenience if termination is in Thornton's best interest. Contract

termination will be initiated by a written Contract Termination Notice to the Contractor which will specify the effective date of the termination.

- B. Canceled Commitments - The Contractor, after receiving the Contract Termination Notice, shall cancel any outstanding commitments for procurement of Materials and Equipment. In addition, the Contractor shall use reasonable efforts to cancel or divert any outstanding subcontracted commitments, unless otherwise requested by Thornton. With respect to such canceled commitments the Contractor shall:
1. Settle all outstanding liabilities and all claims arising out of the canceled commitments. Such settlements shall be approved by Thornton and shall be final; and
 2. Assign to Thornton all of the rights, title, and interest of the Contractor under the terminated orders and subcontracts, as directed by Thornton. Thornton will then have the right to settle or pay any or all claims arising out of the termination of these commitments.
- C. Termination Claim - The Contractor shall submit its termination claim to Thornton within ninety (90) Calendar Days after the effective date of the Contract Termination Notice. During the ninety (90) Calendar Day period, the Contractor may make a written request to Thornton for a time extension in preparing the claim. Any time extension must be approved by Thornton. If the Contractor fails to submit its termination claim within the time allowed, Thornton may determine the amount due the Contractor, if any, by reason of the termination, which determination shall be final. Failure of the Contractor to submit a termination claim within the time allowed shall constitute a waiver of the claim.
- D. Payment - Subject to paragraph C above, the Contractor and Thornton may agree upon the whole or any part of the amount to be paid the Contractor as a result of the termination. The amount may include reasonable cancellation charges incurred by the Contractor. The amount may also include any reasonable loss upon outstanding commitments for subcontracts which the Contractor is unable to cancel, provided the Contractor has proven reasonable effort to divert the commitments to other activities. The amount agreed upon shall be embodied in a Change Order, and the Contractor shall be paid that amount. Where applicable, payments claimed pursuant to termination shall be based on Unit Prices. Payment for partially completed lump sum items may be made in the proportion that the partially completed Work is to the total lump sum item. Where Work performed is of a nature that it is impossible to separate the costs of uncompleted Work from completed Work, the Contractor shall be paid the actual cost incurred for the necessary preparatory Work and other Work completed. The Contractor shall not be entitled to profit or overhead on uncompleted Work.

- E. Disposition of Work and Inventory - The Contractor shall transfer title and deliver to Thornton, such items which, if the Contract had been completed, would have been furnished to Thornton including:

1. Completed and partially completed Work; and
2. Materials or Equipment produced, acquired, or in the process of being produced that is terminated by the notice.

Other than the above, any termination inventory resulting from the termination may, with written approval of Thornton, be sold or acquired by the Contractor under the conditions prescribed by and at prices approved by Thornton. The proceeds of any such disposition shall be applied to reduce any payments owed to the Contractor, or shall be credited to the cost of Work, or paid in a manner as directed by Thornton. Until final disposition, the Contractor shall protect and preserve all Material and Equipment which is in its possession and in which Thornton has or may have an interest.

- F. Cost Records - The Contractor agrees to make cost records available to the extent they are necessary to determine the validity and amount of each item in the termination claim.
- G. Contractual Responsibilities - Termination of a Contract, or portion thereof, shall not relieve the Contractor of contractual responsibilities for the Work completed, nor shall it relieve the Surety of its obligation for and concerning any claim arising out of Work performed.

58. THORNTON'S REMEDIES CUMULATIVE; NONWAIVER

No right or remedy conferred upon or reserved to Thornton by the Contract shall be considered exclusive of any other remedy or contractual right, but the same shall be distinct, separate, and cumulative, and shall be in addition to every other remedy existing at law or in equity or by statute; and every remedy given by the Contract to Thornton may be exercised from time to time as often as the occasion may arise, or as may be deemed expedient. No delay or omission on the part of Thornton to exercise any right or remedy arising from any default on the part of the Contractor shall impair such right or remedy or shall be construed to be a waiver of any such default or an acquiescence thereto, or otherwise affect the right of Thornton to enforce the same in the event of any subsequent breach or default by the Contractor.

59. USE OR OCCUPANCY OF COMPLETED PORTIONS

- A. Thornton shall have the right to take possession of, use, or occupy any completed or partially completed portions of the Work, notwithstanding the time for completing the entire Work or any portions, may, or may not, have expired. Such taking possession, use or occupancy shall not be deemed an acceptance

of any Work until all Work has been completed in accordance with the Contract Documents.

- B. If partial use or occupancy increases the cost, or delays the Work, the Contractor shall be entitled to an adjustment to the Contract Price, Contract Time, or both, as Thornton may determine.
- C. Consent of the Surety and endorsement from the insurance carrier or carriers permitting occupancy or use of any completed or partially completed portions of the Work by Thornton shall be secured by the Contractor.

60. VARIATION FROM ESTIMATED PAY ITEM QUANTITIES

On Contracts with Unit Prices, the Contractor may reasonably expect variations in the estimated quantity for any given Pay Item such that the actual quantity installed may range from seventy-five percent (75%) to one hundred twenty-five percent (125%) of the estimated quantity, unless a larger variation is stipulated on the Bid Proposal form. The Contractor shall not be allowed any claims for anticipated profits, for lost profits, or for any damages because of a difference between the estimated quantity for a Pay Item and the actual quantity for the Pay Item, or for the elimination or reduction of a Pay Item quantity as may be required to bring the cost of the Work within the limits of available funds or to reduce the Scope of the Work for any reason.

61. WARRANTY AS TO WORKMANSHIP, MATERIALS AND EQUIPMENT

- A. In addition to other promises and warranties contained herein, the Contractor warrants to Thornton that the Materials and Equipment furnished under the Contract will be of good quality and new, unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered Defective. This warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.
- B. Contractor further warrants to Thornton that competent laborers, mechanics, and tradesmen shall be used on the Work. Experienced manufacturer's representatives shall be used to supervise the installation of Equipment, as may be required by Thornton. Any special tools or construction equipment which may be required shall be provided by the Contractor.
- C. Neither the final certificate of payment nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by Thornton, shall constitute acceptance of Work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any expressed or

implied warranties or responsibility for faulty Materials, Equipment or workmanship. This Warranty will have no time limit except as prescribed by law.

62. WARRANTY PERIOD

- A. The Contractor agrees to keep all Work in Good Repair for a period of one (1) year from the date of Initial Acceptance, unless a longer period is specified in the Contract Documents. Upon written notice from Thornton to the Contractor of any aspect of the Work found by Thornton not to be in Good Repair, the Work shall be promptly repaired by the Contractor. Such repair, including any consequential damages resulting from the defect to be repaired, shall be made without further cost to Thornton.
- B. If the Contractor does not proceed to remedy such defects, deficiencies, deteriorations, or departures called to its attention within seven (7) Calendar Days after mailing of the notice and diligently pursue such repairs, Thornton may cause the repairs to be made as Thornton deems best and the cost shall be paid by the Contractor or its Surety.
- C. The obligations of the Contractor provided in this section shall be in addition to and not in limitation of any obligations imposed upon by it by any special guaranty or warranty required by the Contract Documents or otherwise prescribed by law.

63. WEATHER

During weather unsuitable for the proper execution of the Work in a first-class manner, all Work affected by such condition shall be properly protected from weather-related damage.

FHWA Form 1273
Required Contract Provisions, Federal-Aid Construction Contracts
<http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>

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NOTICE OF AWARD

Thornton, CO

Date

TO: **[contractor name and address]**

The City of Thornton, having duly considered the Bid Proposal submitted on **[date]**, for **Thornton Trails Wayfinding Signage – Phase II, Thornton Project No. 20-59A, CDOT Project No. STU M 286-047**, as detailed in the Contract Documents and it appearing that your Bid Proposal for performing the Work is fair, equitable and to its best interest, the said Bid Proposal is hereby accepted in the amount of **xxxxxxxxxx (\$XXXXXXXXXX)**, for the Base Bid and in the amount of _____ as stipulated in the Bid Proposal.

In accordance with the terms of the Contract Documents, you are required to execute the formal Contract and furnish the required Performance Bond and Labor and Material Payment Bond within Ten (10) consecutive Calendar Days from and including the date of this Notice of Award.

In accordance with the terms of the Contract Documents, you are required to furnish the required Performance Bond and Labor and Material Payment Bond within ten (10) consecutive Calendar Days from and including the date of this Notice of Award. Once the Bonds have been furnished to Thornton, you will be required to execute the formal Contract via Thornton approved digital signature service.

In addition, you are requested to furnish at the same time IRS W-9 Taxpayer ID Forms and the required Certificates of Insurance and Additional Insured Endorsements evidencing compliance with the requirements for insurance stated in the Contract Documents.

The Bid Security submitted with your Bid Proposal will be retained until the Contract has been executed and the required Bonds, Insurance, and W-9 forms have been furnished and approved.

CITY OF THORNTON, COLORADO

By: _____
Jim Jensen
Contracts Manager

cc: City Clerk
Contract Administration Bulletin Board
Sean Saddler, PE, Contracts and Purchasing Director

e-mail: (Suzann Cox, Project Manager)

file: Thornton Trails Wayfinding Signage – Phase II, Thornton Project No. 20-59A, CDOT Project No. STU M 286-047

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NOTICE TO PROCEED

Thornton, Colorado

_____, 20__

TO: [contractor name and address]

RE: NOTICE TO PROCEED – Thornton Trails Wayfinding Signage – Phase II, Thornton Project No. 20-59A, CDOT Project No. STU M 286-047

You are hereby authorized to proceed with the Work within ten (10) consecutive Calendar Days from this date and substantially complete the Work within one hundred eighty (180) consecutive Calendar Days from this date. The date for Substantial Completion of this Project is _____, 20__. Liquidated damages identified in the CDOT Standard Provisions are applicable for each Calendar Day past the Substantial Completion date for which Work on this Project is not substantially complete. Other Liquidated Damages for missed milestone or other interim completion dates will apply if such dates are specified in the Contract Documents.

CITY OF THORNTON, COLORADO

BY: _____
Keith Griess
Contract Administrator

cc: City Clerk

e-mail: Tracy Vance (tracy.vance@state.co.us), Civil Engineering Project Manager I
Jim Bilyeu, Plans Examining Supervisor

file: THORNTON TRAILS WAYFINDING SIGNAGE – PHASE II, Thornton Project No. 20-59A, CDOT Project No. STU M 286-047

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**COLORADO
DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISIONS
CITY OF THORNTON TRAIL WAYFINDING SIGNAGE – PHASE II
PROJECT SPECIAL PROVISIONS
(*Provided under separate cover*)**

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APPENDIX

- CDOT Form #606, Anti-Collusion Affidavit
- CDOT Form #1413, Bidders List
- CDOT Form #1414 Anticipated DBE Participation Plan
- CDOT Form #605, Contractor's Performance Capability Statement
- CDOT Form #621, Assignment of Anti-trust Claims
- CDOT Form #1415, Commitment Confirmation
- CDOT Form #1416, Good Faith effort Report

*ALL CDOT FORMS CAN BE FOUND AT THE UNDERLYING LINK
https://www.codot.gov/business/designsupport/bulletins_manuals/2006-local-agency-manual/appendix-a-final.pdf

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CDOT Form #606 ANTI-COLLUSION AFFIDAVIT

COLORADO DEPARTMENT OF TRANSPORTATION ANTI-COLLUSION AFFIDAVIT	PROJECT NO. LOCATION
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I hereby attest that I am the person responsible within my firm for the final decision as to the price(s) and amount of this bid or, if not, that I have written authorization, enclosed herewith, from that person to make the statements set out below on his or her behalf and on behalf of my firm.

I further attest that:

1. The price(s) and amount of this bid have been arrived at independently, without consultation, communication or agreement for the purpose or with the effect of restricting competition with any other firm or person who is a bidder or potential prime bidder.
- 2A. Neither the price(s) nor the amount of this bid have been disclosed to any other firm or person who is a bidder or potential prime bidder on this project, and will not be so disclosed prior to bid opening.
- 2B. Neither the prices nor the amount of the bid of any other firm or person who is a bidder or potential prime bidder on this project have been disclosed to me or my firm.
- 3A. No attempt has been made to solicit, cause or induce any firm or person who is a bidder or potential prime bidder to refrain from bidding on this project, or to submit a bid higher than the bid of this firm, or any intentionally high or non-competitive bid or other form of complementary bid.
- 3B. No agreement has been promised or solicited for any other firm or person who is a bidder or potential prime bidder on this project to submit an intentionally high, noncompetitive or other form of complementary bid on this project.
4. The bid of my firm is made in good faith and not pursuant to any consultation, communication, agreement or discussion with, or inducement or solicitation by or from any firm or person to submit any intentionally high, noncompetitive or other form of complementary bid.
5. My firm has not offered or entered into a subcontract or agreement regarding the purchase or sale of materials or services from any firm or person, or offered, promised or paid cash or anything of value to any firm or person, whether in connection with this or any other project, in consideration for an agreement or promise by any firm or person to refrain from bidding or to submit any intentionally high, noncompetitive or other form of complementary bid or agreeing or promising to do so on this project.
6. My firm has not accepted or been promised any subcontract or agreement regarding the sale of materials or services to any firm or person, and has not been promised or paid cash or anything of value by any firm or person, whether in connection with this or any other project, in consideration for my firm's submitting any intentionally high, noncompetitive or other form of complementary bid, or agreeing or promising to do so, on this project.
7. I have made a diligent inquiry of all members, officers, employees, and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's bid on this project and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, or other conduct inconsistent with any of the statements and representations made in this affidavit.
8. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as a fraudulent concealment from the Colorado Department of Transportation, of the true facts relating to submission of bids for this contract.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS, THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Contractor's firm or company name	By	Date
	Title	

2nd contractor's firm or company name. (if joint venture.)	By	Date
	Title	

Sworn to before me this _____ day of, _____ 20____

Notary Public	
My commission expires	
NOTE: This document must be signed in ink.	

CDOT Form #606 1/02

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CDOT Form #1414 ANTICIPATED DBE PARTICIPATION PLAN

COLORADO DEPARTMENT OF TRANSPORTATION			
ANTICIPATED DBE PARTICIPATION PLAN			
Bidder:		Project Name:	
Bidder Contact:		Subaccount #:	
Bidder Phone:		Bid Submission Date:	
Bidder Email:		DBE Contract Goal:	
Preferred Contact Method:		Region:	
DBE Commitments			
DBE Firm Name	Work to Be Performed	Commitment Amount	Eligible Participation
Total Eligible Participation			\$0.00
Total Bid Amount			
Total Eligible Participation Percentage			#DIV/0!
Bidder Signature			
<p><u>COMMITMENTS LISTED ON THIS FORM SHALL BE BINDING ON THE BIDDER UPON CONTRACT AWARD. IF THE DBE GOAL IS ZERO, DBE COMMITMENTS ARE OPTIONAL AND THE BIDDER IS NOT REQUIRED TO LIST ANY DBE COMMITMENTS ON THIS FORM.</u> This section must be signed by an individual with the authority to bind the Bidder. By signing this form, as an authorized representative of the Bidder, you declare under penalty of perjury in the second degree and any other applicable state or federal laws that the statements made in this document are true and complete to the best of your knowledge. Further, you attest that you understand the following:</p> <p>CDOT shall not award a contract (or provide its concurrence to award a Local Agency Project) until it has been determined that commitments are sufficient to meet the DBE contract goal or else good faith efforts have been made to meet the goal despite falling short. Once your bid has been submitted, commitments may not be modified or terminated without the approval of CDOT. If selected as the lowest apparent bidder, you shall submit a Form 1415 for each commitment listed above. If you have not met the contract goal, you will also be required to submit documentation of all good faith efforts to meet the contract goal. It is your responsibility to ensure that the selected DBEs are certified for the work to be performed and that their eligible participation has been properly counted. Please review your project's DBE requirements for additional information and instructions on calculating eligible participation.</p>			
Name	Title	Signature	Date
CDOT Form # 1414 10/20			

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CDOT Form #605

CONTRACTOR'S PERFORMANCE CAPABILITY STATEMENT

COLORADO DEPARTMENT OF TRANSPORTATION CONTRACTORS PERFORMANCE CAPABILITY STATEMENT		Project #
1. List names of partnerships or joint ventures <input type="checkbox"/> none 		
2. List decreases in the contractors fiscal or workmanship qualifications compared to the last prequalification statement submitted to CDOT. (Attach additional sheets if necessary.) a. Key personnel changes <input type="checkbox"/> none b. Key equipment changes <input type="checkbox"/> none c. Fiscal capability changes (legal actions, etc.) <input type="checkbox"/> none d. Other changes that may effect the contractors ability to perform work. <input type="checkbox"/> none 		
I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS, THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE		
Contractor's firm or company name	By	Date
	Title	
2nd Contractor's firm or company name (if joint venture)	By	Date
	Title	

CDOT Form #605 1/92

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CDOT Form #621 ASSIGNMENT OF ANTI-TRUST CLAIMS

COLORADO DEPARTMENT OF TRANSPORTATION ASSIGNMENT OF ANTITRUST CLAIMS	PROJECT NO.
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Contractor and Colorado Department of Transportation (CDOT) recognize that in actual economic practice antitrust violations ultimately impact on CDOT. Therefore, for good cause and as consideration for executing this contract and for receiving payments hereunder:

1. Contractor hereby irrevocably assigns to CDOT any and all claims it may now have or which may hereafter accrue to it under federal or state antitrust laws in connection with the particular project, goods or services purchased or acquired by CDOT pursuant to this contract.
2. Contractor hereby expressly agrees:
 - a. That, upon becoming aware that a third party has commenced a civil action asserting on Contractor's behalf an antitrust claim which has been assigned to CDOT hereunder, Contractor shall immediately advise in writing:
 - (1) Such third party that the antitrust claim has been assigned to CDOT, and
 - (2) CDOT that such civil action is pending and of the date on which, in accordance with subparagraph a. (1) above, Contractor notified such third party that the antitrust claim had been assigned to CDOT;
 - b. To take no action which will in any way diminish the value of the claims or rights assigned or dedicated to CDOT hereunder; and
 - c. Promptly to pay over to CDOT its proper share of any payment under an antitrust claim brought on Contractor's behalf by any third party and which claim has been assigned to CDOT hereunder.
3. Further, Contractor agrees that in the event it hires one or more subcontractors to perform any of its duties under the contract, Contractor shall require that each such subcontractor:
 - a. Irrevocably assign to CDOT (as a third party beneficiary) any and all claims that such subcontractor may have or which may thereafter accrue to the subcontractor under federal or state antitrust laws in connection with any goods or services provided by the subcontractor in carrying out the subcontractor's obligations to Contractor;
 - b. Upon becoming aware that a third party has commenced a civil action on the subcontractor's behalf asserting an antitrust claim which has been assigned to CDOT hereunder, shall immediately advise in writing:
 - (1) Such third party that the antitrust claim has been assigned to CDOT, and
 - (2) Contractor and CDOT that such civil action is pending and of the date on which, in accordance with subparagraph b. (1) above, the subcontractor notified such third party that the antitrust claim had been assigned to CDOT;
 - c. Take no action which will in any way diminish the value of the claims or rights assigned or dedicated to CDOT hereunder; and
 - d. Promptly pay over to CDOT its proper share of any payment under an antitrust claim brought on the subcontractor's behalf by any third party and which claim has been assigned or dedicated to CDOT pursuant hereto.

I, acting in my capacity as officer of a bidder (bidders if a joint venture) do agree to the above assignment of antitrust claims.

Contractor's firm or company name	By	Date
	Title	
2nd contractor's firm or company name. (if joint venture.)	By	Date
	Title	

CDOT Form #621 12/91

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CDOT Form #1415 COMMITMENT CONFIRMATION

COLORADO DEPARTMENT OF TRANSPORTATION				
COMMITMENT CONFIRMATION				
SECTION 1. This section must be completed by the Contractor.				
Project Name:		Subaccount:		
Bidder:		Bidder Phone:		
Bidder Contact:		Bidder Email:		
DBE Firm Name:		DBE Phone:		
DBE Address:		DBE Email:		
Commitment Details				
Category	Work to be Performed	DBE Work Code(s)	Commitment Amount	Eligible Participation
Construction				
Trucking				
Supplier				
Services				
Total			\$0.00	\$0.00
This section must be signed by an individual with the power to contractually bind the Bidder/Contractor. You declare under penalty of perjury in the second degree and any other applicable state or federal law that the statements made in this document are complete, true and accurate to the best of your knowledge.				
Bidder/Contractor Representative	Title	Signature	Date	
SECTION 2. This section must be completed by the DBE. (Attach additional pages if necessary).				
This document is not a contract with the Bidder/Contractor; it is an acknowledgment of the obligation that the Bidder/Contractor is making to CDOT. The amounts listed above may be less than the sub-contractor or purchase order amount, but can never be more, and shall not reflect any mark up by the Bidder/Contractor. All questions must be answered.				
Are you contracting directly with the Bidder/Contractor or with one of its sub-contractors? If with a sub-contractor, provide the firm name.				
Will you be purchasing supplies or materials or leasing or renting equipment from the Bidder/Contractor or its sub-contractors? If so, explain.				
Do you intend to subcontract any portion of the work listed above? If yes, state to which firms, what work and the approximate amount. Include trucking sub-contractors and owner/operators.				
Will you be providing trucking services on this project? If so, state how many of your own trucks and employees you will have on this project.				
Who within your firm will be supervising and responsible for your firm's work on this project?				
Will you be acting as a broker on this project? If so, state what you will be brokering and your approximate brokerage fee.				
Will you be acting as a supplier on this project? If so, please state what you will be supplying and whether you will manufacture the items.				
This section must be signed by an individual with the power to contractually bind the DBE. You declare under penalty of perjury in the second degree and any other applicable state or federal law that the statements made in this document are complete, true and to the best of your knowledge. You attest that you are eligible to participate as a DBE on this contract for the completion of the work and that the statements are true and accurate to the best of your knowledge.				
DBE Representative	Title	Signature	Date	
Review your project's DBE requirements for additional instructions on completing and submitting this form. Questions may also be directed to the CDOT Civil Rights & Business Resource Center at (303) 257-6234 or by email at CDOT-CRBC@colorado.gov				
SECTION 3. This section must be completed by Region Civil Rights Specialist or Civil Rights and Business Resource Center staff member.				
Name	Title	Approved or Denied	Date of Decision	
Pre-award CDOT projects: This form should be uploaded with the Utilization Plan and submitted electronically to the Civil Rights & Business Resource Center via B2GNow.				
Pre-award local agency projects: Submit this form to the local agency that will be awarding the project.				

CDOT FORM 1415

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CDOT FORM #1416 GOOD FAITH EFFORT REPORT

COLORADO DEPARTMENT OF TRANSPORTATION			
GOOD FAITH EFFORT REPORT			
Section 1. Contractor and Project Information			
Bidder:		Project:	
Address:		Project Code:	
Contact Name:		Proposal Amount:	
Contact Phone:		Contract Goal Percentage:	
Contact Email:		Contract Goal Dollar Value:	
Section 2. Efforts to Achieve DBE Participation. Attach a narrative that answers the questions below and complete Page 2 (Subcontractor Quote Summary). Provide any supporting documentation which demonstrates your good faith efforts.			
<p>a. Describe your overall plan or approach to meeting the contract goal. Include how much and what work you intend to self-perform; how much and what work you intend to subcontract; what work areas were identified as subcontracting opportunities for DBEs; and the approximate number of DBEs per area.</p> <p>b. Describe your efforts to obtain DBE participation (i.e. how you attempted to execute your plan or approach to meeting the contract goal). Include direct outreach (state the DBE solicited, date(s) and method of phone, email or fax); indirect outreach such as events, publications, and/or communication with minority and other organizations that you conducted to reach DBEs (state date(s), location and audience); other efforts you made to assist DBEs in competing for or obtaining contracts (accepting quotes from DBEs that may be higher than other subcontractors, modifications to contract scopes, unbundling, mentoring, etc.); and obstacles you encountered in assisting or contracting with DBEs. Cost alone shall not be a reason to reject a DBE and will be considered in the evaluation of Bids.</p> <p>c. If the eligible participation submitted on the Form 1414 was miscalculated, determined to be invalid, or otherwise did not meet the contract goal, provide your justification for such deficiencies and the remedies you have taken or intend to take to avoid the issue in the future. If you have obtained any additional commitments since submission of the bid, attach the Form 1415(s) and the reason why such commitments were not obtained prior to the proposal due date.</p>			
Section 3. Affidavit of Good Faith Efforts. The Bidder must show that it took all necessary and reasonable steps to achieve the DBE contract goal which by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if not fully successful. 49 CFR Part 26, Appendix A sets forth examples and guidance for good faith efforts. The contractor is not limited to the examples provided in 49 CFR Part 26, Appendix A and may provide any documentation that demonstrates good faith efforts to obtain DBE participation on this contract.			
<p>If, at any time, CDOT has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, CDOT may initiate suspension or debarment proceedings against the person or firm under 49 CFR Part 23, take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice or Office of the Inspector General for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal program.</p> <p>By signing below, the Bidder hereby affirms that it has made good faith efforts and has documented all such efforts in this form and the attached supporting documentation.</p>			
<p>I, _____, am the _____ of _____.</p> <p style="text-align: center;">Representative Name Title Company</p> <p>I have the authority to make this affidavit for and on behalf of my company. All information provided herein and attached as evidence of my company's good faith efforts is true and accurate to the best of my belief.</p> <p style="text-align: center;">_____ Signature Date</p>			
Notarization: Must be completed by a licensed notary.			
County of _____ State of _____			
Subscribed and sworn before me this _____ day of _____			SEAL
Notary Signature			
Notary Address			
<p>CDOT projects: Submit this form and all supporting documentation to the CDOT Civil Rights and Business Resource Center via fax to (303)757-9019. All originals must be sent to: CDOT Civil Rights and Business Resource Center, 4201 E. Arkansas Ave. Room 150, Denver, CO 80222.</p>			
<p>Local agency projects: Submit this form and all supporting documentation to the local agency. All originals must be sent to: CDOT Civil Rights and Business Resource Center, 4201 E. Arkansas Ave. Room 150, Denver, CO 80222.</p>			

Rev. 6-2019

ADDENDA